

1 THE CHANCERY COURT OF JACKSON COUNTY,  
2 MISSISSIPPI  
3 CAUSE NO. 94-1429  
4

5 IN RE:

6 MIKE MOORE, ATTORNEY GENERAL  
7 EX REL, STATE OF MISSISSIPPI  
8 TOCACCO LITIGATION  
9

10 DEPOSITION OF: PATRICIA A. GODBOUT  
11 DATE: Wednesday, March 26, 1997  
12 TIME: 9:04 a.m.  
13 LOCATION: KALKINES, ARKY, ZALL &  
14 BERNSTEIN, L.L.P.  
15 1675 Broadway  
New York, New York  
16 TAKEN BY: Counsel for the Plaintiff  
17 REPORTED BY: DIANE GLOCKNER  
18 Certified Shorthand Reporter  
19  
20  
21

22 -----  
23 Computer-Aided Transcription By:

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13 Catherine R. Nathan,  
14 Tucker Alan, Inc.

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16 (INDEX AT REAR OF TRANSCRIPT)

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[illegible]

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## STIPULATION

3                   It is stipulated by and among  
4   Counsel that this deposition is being taken in  
5   accordance with the Federal Rules of Civil  
6   Procedure; that all objections as to Notice of  
7   this deposition are hereby waived; that all  
8   objections except as to form are reserved until  
9   the time of trial; and that the witness has  
10  reserved the right to read and sign the deposition  
11  after review by counsel.

12       \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*

13 (Exhibits Godbout 1 through Godbout  
14 3 are marked for identification.)

15 PATRICIA ANN GODBOUT

[DELETED]

18 being first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. YOUNG:

21 Q. Before the court reporter swore you  
22 in I introduced myself to you, and again for the  
23 record I will introduce myself as Lee Young. I  
24 represent the State of Mississippi and the  
25 Attorney General, Mike Moore, in the case that's

1     been filed in Chancery Court in Jackson County,  
2     Mississippi. Are you familiar with that case?

3     A.       Yes.

4             Q.       Okay. Ms. Godbout, you've stated  
5     your name and address for the record. Could you I  
6     get you to state your social security number?

7     A.     [DELETED]

8             Q.       Could you tell me, please, have you  
9     ever had your deposition taken before?

10    A.       Yes.

11            Q.       And could you tell me -- so you  
12    generally know the rules -- I'm sure your  
13    attorneys have spoken to you today about what the  
14    sort of game plan is for the deposition?

15    A.       Well --

16            Q.       I will go over those again with you  
17    real briefly.

18    A.       Okay.

19            Q.       As you know, I'll be asking you  
20    questions today. You're under oath to give  
21    truthful answers and I'm sure you will. Do you  
22    understand that?

23    A.       Yes.

24            Q.       At any time any of the questions  
25    that I ask you today, if you do not understand the

1 question, please ask me to repeat it because  
2 otherwise I'm going to assume that you understood  
3 what I ask you.

4 A. I will.

5 Q. If you would like to take a break,  
6 please stop me and ask me and we'll get to a  
7 stopping point and I'll allow you to take a  
8 break. I want this to be as painless for both of  
9 us as possible, because it is generally a dry  
10 subject.

11 Have you got any questions before  
12 we get started?

13 A. No, not right now.

14 Q. You stated just a second ago that  
15 you had given a deposition before?

16 A. Yes.

17 Q. In what context was that?

18 A. Generally when my employer had been sued  
19 over nursing home rates. There were probably some  
20 other instances where I was testifying on behalf  
21 of the staff -- the state. So the deposition was  
22 being taken -- I'm -- it all kind of blends  
23 together, and I can't remember when I was giving  
24 testimony and when I was answering questions in a  
25 deposition, but I've done that.

1 Q. Okay. Let's try to go into that  
2 area a little bit more.

3 A. Okay.

4 Q. You said when your employer was  
5 being sued?

6 A. Yes. A number of nursing homes sued the  
7 State of Montana, specifically the Montana  
8 Department of Social and Rehabilitation Services,  
9 concerning the rates that we had set for nursing  
10 home care under the Medicaid program or the  
11 amounts that we were demanding back as  
12 overpayments.

13 Q. Okay.

14 A. For nursing home reimbursement.

15 Q. Do you remember approximately what  
16 year that was?

17 A. Probably the actual depositions probably  
18 started sometime in 1981 and continued on into at  
19 least 1982.

20 Q. And do you remember what court that  
21 was in? Was it in federal court?

22 A. In terms of the depositions, I think the  
23 depositions were all in relation to administrative  
24 hearings in Montana. The only time we were ever  
25 in court was to show the court that, one, the

1 venue was in Helena rather than wherever they had  
2 filed and, two, that they had to go through the  
3 Administrative Proceedings Act and they had not  
4 exhausted that and they didn't have -- in  
5 accordance with our contracts and state law, it  
6 wasn't proper for those issues to be addressed in  
7 court.

8 Q. Okay.

9 A. So that would have been the only time. So  
10 the depositions were all in relation to --

11 Q. Did they ever get to the merits of  
12 the case of the nursing homes?

13 A. I remember at least one instance where I  
14 was testifying in court concerning at least what  
15 we had done and what -- why we had taken the  
16 actions we had taken.

17 Q. Let me ask you this, then. Was  
18 this one case that went from administrative  
19 proceedings to a federal or state court after  
20 those remedies were exhausted? Or if you can give  
21 me the context of how many different cases you've  
22 been called to testify in or give a deposition  
23 in.

24 A. Well, I can't recall it all. Obviously  
25 it's quite awhile ago. But in two cases I

1 testified in court, the issue, our issue being to  
2 change the venue and bring it back into the state  
3 capital and we knew if we could bring it into that  
4 court, we would get remanded back to the  
5 administrative process. So at least two of those  
6 I remember. And I would say more than five and  
7 less than 15 times I had my deposition taken in  
8 relationship to different administrative hearings  
9 concerning different nursing homes.

10 Q. Okay. Was this all within your  
11 capacity in your position in the State of Montana?

12 A. Yes.

13 Q. And that would have been in the  
14 general time frame of '81 to '89, '83?

15 A. Well, I think most of those were probably  
16 in '81 and '82. I remember because I had changed  
17 jobs into a different -- I had taken a different  
18 position in the agency but -- and I was no longer  
19 responsible for nursing home reimbursement, but  
20 because I had taken the actions I was still the  
21 witness, and part of my agreement to be able to  
22 change jobs was that I would continue to do  
23 whatever was necessary in resolving the issues on  
24 nursing home reimbursement.

25 Q. I saw in your CV, and we'll get

1     into that, that you testified as an expert. I'm  
2     assuming this is the case that you're talking  
3     about?

4     A.       In those -- I was the state's witness on  
5     what we had done and why we did that.

6            Q.       But you identified yourself in the  
7     CV as the expert witness in that area. Is that  
8     right?

9     A.       Yes.

10          Q.       Did the court, do you know whether  
11     or not you went through the qualifications in  
12     court being qualified as an expert?

13     A.       I really -- I know that in one situation  
14     they challenged that I wasn't an expert.

15          Q.       Do you know what the result of that  
16     challenge was?

17     A.       Well, I mean, we continued to testify so,  
18     no, I am not an attorney I really don't  
19     understand.

20          Q.       I understand. I understand.

21     A.       We were allowed to proceed and we were  
22     found to -- we sustained all our positions and  
23     they paid all the money back so I assume that they  
24     accepted my testimony.

25          Q.       Good.

1 A. We never lost anything.

2 Q. All right. Other than your  
3 testimony for the State of Montana, have you  
4 testified before or given a deposition before?

5 A. By testified do you mean just in legal  
6 proceedings? Is that what you mean by that?

7 Q. I mean any proceedings where you've  
8 been put under oath.

9 A. Oh, not under oath.

10 Q. Administrative, legislative?

11 A. I obviously testified in all those  
12 administrative hearings.

13 Q. My question, Ms. Godbout, is other  
14 than in your work with Montana.

15 A. Okay. I think that I testified in some  
16 personnel actions in Virginia.

17 Q. Tell me about those.

18 A. Well, when I first went to Virginia we had  
19 a situation where there were a number of African  
20 Americans who for numerous reasons felt that they  
21 had been discriminat d against in the hiring  
22 practices, and we were trying to deal with those  
23 issues. And so I recall at least one instance,  
24 and there may have been more, where I was  
25 testifying about what -- why someone was not

1 provided -- given a position that they applied  
2 for.

3 Q. When you say you went, you recall  
4 this happening when you went to Virginia, what  
5 capacity were you working in Virginia at that  
6 time?

7 A. I was serving as the deputy commissioner  
8 for finance and administration with the Virginia  
9 Department of Social Services.

10 Q. Do you know if that was in a state  
11 or federal court?

12 A. It was in an administrative hearings again.

13 Q. Did it ever go to a state or  
14 federal court?

15 A. It was found -- in the one case I remember  
16 it was found that we had acted properly and I  
17 think they threatened to move forward, but I never  
18 was involved again so I assume they didn't.

19 Q. Did you give a deposition or did  
20 you simply testify in the administrative  
21 proceeding?

22 A. I testified in the administrative hearing.

23 Q. One guideline I forgot to explain  
24 to you is the court reporter can only take one of  
25 us speaking at a time.

1 A. Oh, sorry.

2 Q. So I ask you that you take --

3 A. Okay.

4 Q. I don't want to cut you off  
5 either.

6 A. Okay.

7 Q. Remember, please, that the court  
8 reporter can only get down a verbal response, so  
9 people have a tendency to nod their head in  
10 agreement. So you need to give a verbal response.

11 A. Okay.

12 Q. Do you remember the general time  
13 frame that you testified during this  
14 administrative proceeding?

15 A. It was someplace between 1987 and 1989.

16 Q. Other than your testimony in the  
17 State of Montana and your testimony that you just  
18 described in the State of Virginia, can you think  
19 of any other times that you've testified either by  
20 deposition, by court appearance, by legislative  
21 appearance or administrative appearance?

22 A. I've not given sworn testimony other than  
23 those situations.

24 Q. You say sworn testimony. Why do  
25 you make a distinction?

1 A. I thought you had made a distinction. I  
2 have testified in front of legislative bodies on  
3 numerous occasions but never under oath.

4 Q. Okay. Well, good, let's talk about  
5 that then for a second. Tell me about -- you said  
6 numerous occasions.

7 A. Yes.

8 Q. Let's go back to Montana then.

9 A. Okay.

10 Q. Can you recall for me, please,  
11 generally when you testified and what legislative  
12 body it was before in Montana?

13 A. For the most part I was testifying on  
14 budgetary issues and I would have testified on  
15 those budgetary issues, for the period 1980  
16 through 1987.

17 Q. Would that have been on an annual  
18 basis probably?

19 A. Well, they meet biannually. But they do  
20 have interim committees, and when the interim  
21 committees requests your presence, you go nd --

22 Q. Especially if your money is on the  
23 line?

24 A. And so, well, that was the time period.  
25 And I would be testifying before, generally before

1 a joint committee of representatives and senators.

2 Q. Is this like the appropriations  
3 committee?

4 A. The appropriations committee, yes. Or a  
5 subcommittee of the appropriations committee would  
6 be more appropriate.

7 Q. Any other times in Montana that you  
8 recall?

9 A. I testified on a few occasions in reference  
10 to bills, pieces of legislation, nonfinancial  
11 legislation that we had an interest in, that we  
12 had asked to be introduced and that we were trying  
13 to convince the legislature that they should  
14 enact.

15 Q. That's interesting. What type of  
16 legislation was that?

17 A. Well --

18 Q. If you can recall generally?

19 A. I remember one where we had a very serious  
20 problem with people buying and selling food  
21 stamps, and because Montana is a very rural state  
22 and a long ways from Denver, we couldn't get  
23 assistance from the federal government in pursuing  
24 that and it's a federal crime, and it is all --  
25 it's 100 percent federal money and it's not state

1 money. Unfortunately, they would lie to get the  
2 food stamps and then they would buy and sell the  
3 food stamps. And when we would review the cases  
4 for quality control, then we would find out that  
5 they lied to get the benefits and it would impact  
6 our error rate, which did in fact cost the state  
7 money. And so we were trying to bring that under  
8 control, and we developed a piece of legislation  
9 that -- where we could treat food stamp fraud like  
10 check fraud and add up a bunch of different cases,  
11 and then they treat that as a felony. Because we  
12 weren't having much luck with the misdemeanors.

13 Q. Okay. Can you tell me any other  
14 pieces of legislation?

15 A. I worked on some legislation where we were  
16 trying to limit the payments to county welfare  
17 agencies for public assistance. And in Montana  
18 they, at least the county government, is  
19 responsible for a major portion of the operating  
20 costs of public assistance programs, not  
21 necessarily the benefit cost but the operating  
22 cost. And they have to levy a certain levy and  
23 when they have properly expended that levy, then  
24 the state is responsible for 100 percent of the  
25 cost. And we were dealing with some issues there.

1 Q. Okay. Anything else?

2 A. I think those are generally the kinds of  
3 things. And I certainly could have testified on  
4 other pieces of legislation in Montana. I just  
5 don't remember them all. I tested -- testified  
6 numerous times.

7 Q. I understand.

8 A. On both budgetary and nonbudgetary issues.

9 Q. That's fair. Okay. Let me ask  
10 you, when you speak of testifying either on  
11 budgetary issues or on certain pieces of  
12 legislation, could you tell me just briefly in  
13 what capacity you were testifying?

14 A. In Montana they usually want the person  
15 that is the director of the division that they are  
16 funding to testify in their own budget.

17 Q. And in Montana what would that --

18 A. That would have been on the Medicaid  
19 budget. That would have been -- in the early time  
20 it would have been on the audit and program  
21 compliance budget which I ran for four years. It  
22 would have been on the centralized services  
23 budget. And in some situations I would testify on  
24 issues, for example, we wanted an appropriation to  
25 put up a new eligibility system, and because I had

1 a good working relationship with the -- some of  
2 the legislators and the agency felt that they  
3 would be funded easier and with less hassle if I  
4 went to argue the situation, then I would.

5 So it wasn't necessarily my budget  
6 issue, but because of my financial background,  
7 they would ask me to go and testify and try to get  
8 funding for certain programs. So it was not only  
9 the ones that I ran. In some cases it was some  
10 other ones.

11 And also there were instances  
12 where, for example, on homemakers, they were upset  
13 with us concerning the definition of homemaker  
14 services and how we were spending that money, and  
15 we were spending it in four or five different  
16 budgets, and one evening demanded that someone be  
17 there the next morning to explain all of those  
18 different programs and what the funding was and  
19 what the differences were. And since I had -- as  
20 the auditor, I had audited the various programs  
21 and I had been in Medicaid, so I was given the  
22 opportunity to do that.

23 Q. I really meant your title.

24 A. Oh, I'm sorry.

25 Q. But I appreciate it. What was your

1 title? Did it change during those years?

2 A. Yes, it did, it changed a number of times.

3 Q. What was your title, do you  
4 remember on the budgetary issues? Would that have  
5 changed also?

6 A. Yes, it would have changed.

7 Q. Okay. Okay. Now, in Virginia, did  
8 you testify before the legislative body?

9 A. Yes, I did.

10 Q. Do you remember when and in what  
11 capacity?

12 A. I testified -- I would have been testifying  
13 in the period 1987 through 1989 on issues  
14 concerning the social services budget, and I was  
15 acting in the capacity as deputy commissioner for  
16 finance and administration. Probably just a few  
17 times in Virginia. They prefer that the  
18 department director testify on behalf of all --  
19 and most issues and they don't want budget  
20 officers or deputies. They want to see the  
21 department director in. So I would have been  
22 testifying because of a level of complication that  
23 the commissioner would have asked that I answer  
24 the question that was posed to him. Or because he  
25 was not able to attend the meeting.

1 Q. Would this have been the same, he  
2 would have been addressing on budgetary issues?

3 A. Budgetary issues generally, yes, and I can  
4 think of at least one occasion where we were  
5 opposing some legislation that was concerning  
6 public assistance and I testified.

7 Q. Can you tell me what that  
8 legislation was briefly?

9 A. Yes. It was concerning the right of  
10 individuals to sue the state over the public  
11 assistance programs.

12 Q. Were you for or against individuals  
13 being able to sue the state?

14 A. The governor had taken the position against  
15 them being able to sue for certain public  
16 assistance programs. And it had to do with the  
17 definition of public assistance.

18 Q. Would Medicaid have been one of  
19 those?

20 A. Yes, it was. But we were not arguing  
21 against that.

22 Q. Okay. Any other in Virginia, any  
23 other legislative or administrative bodies that  
24 you can recall that you provided unsworn testimony  
25 for?

1       A.       Well, on occasions when I was at the  
2       Department of Planning and Budget and when I  
3       worked in the secretary of health and human  
4       services, I may have appeared -- did appear in  
5       front of subcommittees and answer questions.

6               Q.       On?

7       A.       The budgetary issues concerning social  
8       services and Medicaid, but not very often. They  
9       usually had the staff ask questions. But on  
10      occasions I did answer questions about the  
11      Medicaid budget and the social services budget.

12             Q.       Okay. Ms. Godbout, I want to make  
13      sure I understand. In Virginia, other than the  
14      sworn testimony you talked about earlier regarding  
15      the alleged racial discrimination and the unsworn  
16      testimony that you just described concerning  
17      budgetary issues and health and human services  
18      issues, any other times that you can recall that  
19      you testified in Virginia?

20      A.       Well, I testified on budgetary issues  
21      concerning the Medicaid program when I was the  
22      deputy director of Medicaid, but it would have  
23      been the same kind of testimony.

24             Q.       When you say budgetary issues in  
25      Virginia, you're talking about the same type of

1 issues that were experienced in Montana as far as  
2 appropriations for the program?

3 A. Yes, I am.

4 Q. Did any of those ever -- was any of  
5 your testimony ever concerning inappropriate  
6 payouts or budget problems?

7 A. No.

8 Q. Other than Montana and Virginia,  
9 sworn, unsworn, have you provided any other  
10 testimony that you can recall?

11 A. No.

12 Q. No other states?

13 A. No.

14 Q. Personally have you ever been  
15 involved in litigation?

16 A. No.

17 Q. Consulting work, do you do that  
18 now?

19 A. Yes, I do.

20 Q. How long have you been doing  
21 consulting work?

22 A. Since 1994.

23 Q. Is that on the private sector or do  
24 you do some for the government sector still?

25 A. Some for government sector.

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1           Q.       Tell me what you do for the  
2 government sector, what type of consulting work  
3 you do?

4       A.       I have -- it's mostly with school  
5 districts. Currently we submit Medicaid claims  
6 for -- to school districts in Missouri. And so  
7 it's not so much consulting but actually they give  
8 us the information and we either submit fee for  
9 service claims or we calculate an administrative  
10 claim and send that, and that's for two school  
11 districts in Missouri we do that right now.

12           Q.       Explain that, a school district  
13 getting paid by Medicaid?

14       A.       Mississippi is one of the few states in the  
15 country that has not allowed that to happen, but  
16 the -- in many, many states school districts are  
17 allowed to bill fee for services for the therapy  
18 services that they are required to deliver to  
19 developmentally disabled or handicapped children,  
20 speech therapy, physical therapy and they're  
21 allowed to submit fee for service claims for  
22 that. In addition, they are allowed to bill for  
23 services that are rendered by school district  
24 staff and identify -- and it all has to do with  
25 periodic screening, diagnosis and treatment.

1                   Are you familiar with that  
2   program?  It's a program that's in the Medicaid  
3   program and it's designed to ensure that children  
4   have the preventive and primary care they need at  
5   the proper age, and Mississippi is one of the  
6   states that was impacted by the fact that the  
7   federal government greatly expanded the  
8   requirements under what we call EPSDT.  That's the  
9   acronym that's used in Medicaid, and what it  
10   basically requires is that no matter what your  
11   state plan is, that you will provide any service  
12   that a child needs if it is determined that it is  
13   needed to alleviate or remedy a health problem  
14   they have.  And there's a lot of requirements  
15   about getting screenings done, lead screenings,  
16   other normal childhood screenings, and many school  
17   districts help in that area.

18               Q.           What about treatment for drug  
19   abuse?

20   A.           Any treatment that the child is determined  
21   to need.

22               Q.           Would that include drug abuse?

23   A.           Yes, if it is a result of an early periodic  
24   screening.  Now, we did -- and I think Mississippi  
25   may have been one of the states -- some of the

1 states successfully argued that that did not mean  
2 that you necessarily had to pay for residential  
3 psychiatric treatment, that you could provide  
4 services that would meet those needs without  
5 paying for that. So that's what you're talking  
6 about in drug treatment. But it's any service  
7 that a child needs. And a child is defined  
8 differently in different states.

9 Q. You say defined differently.  
10 You're talking about by age breakdown?

11 A. Yes.

12 Q. Generally what is the age for a  
13 child?

14 A. 18 is a minimum definition, and 21 is a  
15 maximum definition.

16 Q. Why do they -- do you advocate  
17 these programs?

18 A. Do I add advocate the programs?

19 MR. HAY: You mean as part of her  
20 consulting?

21 MR. YOUNG: Yes.

22 A. I've explained the programs to states and  
23 I've helped them -- school districts and helped  
24 encourage them to examine whether it would be  
25 beneficial for them. We -- for the time being

1    when the program was first starting up, we  
2    would -- we conducted feasibility studies and we  
3    would examine, you know, the services that were  
4    being delivered by school district staff, and  
5    based on that and based on the policies of the  
6    state, we would determine the -- what the revenue  
7    would be and what the expenses would be and what  
8    the administrative burden would be to enroll in  
9    the program as a school district and make a  
10   recommendation whether the school district should  
11   take that action or not.

12           Q.       My question is do you advocate or  
13   do you recommend that these programs be  
14   implemented within the state?

15   A.       Currently? I do not.

16           Q.       You do not. Have you changed your  
17   position on that?

18   A.       I think that it's administratively -- it's  
19   so administratively burdensome and it's not really  
20   worth the time that it involves in staff. The  
21   revenue is not equal to the administrative  
22   burden. But that is not shared by obviously at  
23   least two of our clients.

24           Q.       I just want to understand this  
25   program real quickly. These programs were

1 designed in order -- as a preventive measure for  
2 children. Is that right?

3 A. Well, if you would like me to start at the  
4 beginning, the State of Massachusetts wanted to  
5 pay their school district for providing these  
6 services and HCFA, the Health Care Finance  
7 Administration, denied their ability to do that  
8 and the state took HCFA to court and eventually  
9 the Supreme Court ruled that in fact HCFA did not  
10 have the right to deny payment and that in fact  
11 they were required to make payment. And once that  
12 decision -- many states relied on that federal  
13 court decision to deal with their regional offices  
14 and to implement the programs. It is implemented  
15 in New York and California and Georgia and --  
16 umpteen states. More states than it is not  
17 implemented in. Texas. Mississippi is one of the  
18 few states that I'm aware of that does not have  
19 the program.

20 Q. Is the basic idea, Ms. Godbout,  
21 behind this program to offer preventive assistance  
22 to children in order to help curve expenditures  
23 down the road?

24 A. That is the basic premise of the EPSDT  
25 program, that's correct.

1 Q. In your opinion does it help curve,  
2 does this program help curve expenditures down the  
3 road?

4 A. The EPSDT program as it is operated  
5 throughout the entire Medicaid program, yes, I do  
6 agree with that.

7 Q. So I thought earlier you said you  
8 do not advocate that program anymore?

9 A. I do not advocate -- we're confusing the  
10 ability of schools to bill under the EPSDT program  
11 with the entire EPSDT program, and I do not  
12 advocate that schools, except for very large  
13 school districts, bill for the services that they  
14 render.

15 Q. Okay. I understand. But generally  
16 you advocate the ideas underlying this, and I  
17 forget the acronym now that --

18 A. It's EPSDT.

19 Q. I thought after MARS and MMIS and  
20 all these others, I had them all down. This is a  
21 new one.

22 A. I apologize. It's just that some of the  
23 words are so long.

24 Q. I understand. So generally you  
25 advocate the principles underlying this program?

1       A.       I do. I thought it was wrong when congress  
2       mandated that the states provide those services  
3       under EPSDT that are not required under their  
4       state plan because I did not believe that the  
5       Medicaid program was ever designed for the federal  
6       government to force actions on the state. I felt  
7       it was always supposed to be a partnership.

8       Q.       So generally you would be of the  
9       opinion that the more preventive measures we can  
10      take with the children, the less expenditures the  
11      government or states in particular would have in  
12      terms of health care?

13     A.       I believe that preventive care and  
14     medically necessary care delivered at the proper  
15     time will reduce your expenditures over the  
16     long-term, yes, I do.

17     Q.       We were discussing, before we got  
18     off on that subject, we were discussing general  
19     consulting work you've done. Would you please  
20     tell me other than the work you've done for the  
21     school district -- we're still in the government  
22     sector.

23     A.       Okay.

24     Q.       Other consulting type work, and  
25     just give me the most brief explanation you can.

1 A. Okay. The only other issue, program that  
2 I've actually worked on in government is I did a  
3 study on the health care program for the Atlanta  
4 public school system and on their public education  
5 system and made recommendations on how they could  
6 operate more efficiently and effectively.

7 Q. Public education in terms of?

8 A. Special education.

9 Q. Just focused solely on special  
10 education?

11 A. On their health care program and on their  
12 special education program, and the reason that it  
13 spilled from health care into special education is  
14 because many of the services that are required to  
15 be delivered by a school district under special  
16 education are actually in fact health care.

17 Q. Okay. Any other in the government  
18 sector?

19 A. I did --

20 Q. I'm sorry to interrupt you. Before  
21 we leave that, the two school districts that  
22 you've done this consulting work for, can you  
23 identify those for me?

24 A. I'm not sure how that -- we have  
25 confidentiality agreements.

1 Q. Fair enough. Fair enough.

2 MR. HAY: That's fine.

3 Q. Are these not public contracts that  
4 you have with the state governments?

5 A. These are --

6 Q. Are they -- what I'm asking you, I  
7 take it then is are these kept from general  
8 knowledge? Is it in the general public that  
9 you've worked on these contracts for these school  
10 districts?

11 A. It's a contract between us -- between the  
12 company that I work for and the school district.  
13 There is a contract that exists.

14 Q. Was it a publicly-funded contract?

15 A. It is a publicly funded -- well, actually  
16 we receive a percentage of the -- it's all public  
17 money because we receive money from the school  
18 district based on the collections for fee for  
19 service and then a flat fee for other  
20 administrative work. So, yes, it is. It is.

21 Q. Public money?

22 A. Public school district money, yes.

23 Q. Okay. Then I ask you to identify  
24 the school district.

25 A. Okay. One school district is Park Hills

1 school district.

2 Q. In what state?

3 A. In Missouri.

4 Q. What city?

5 A. I'm going to say it's in -- it's in the  
6 Kansas City metropolitan area.

7 Q. Good enough.

8 A. And the other school district is  
9 Harrisonville school district. And it is in  
10 Harrisonville, Missouri.

11 Q. Now, the -- did you say Atlanta,  
12 Georgia was the special education --

13 A. Health care and special education, yes.

14 Q. Again, was that contract provided  
15 for through public funds?

16 A. Yes, it was.

17 Q. I would ask you to identify,  
18 please, this city and state?

19 A. The Atlanta public school system, Atlanta,  
20 Georgia.

21 Q. Okay. Any other governmental  
22 agencies that you've consulted for?

23 A. I did one subcontract with, the company was  
24 Fox Systems and the contract -- was they were a  
25 subcontractor. The final contractor had a

1 contract with the State of Montana. And they were  
2 looking at their reimbursement system for I think  
3 it was acute care and psychiatric care. And as a  
4 subcontractor, I looked at some MMIS system  
5 required changes for the purpose of trying to  
6 determine what those should legitimately cost and  
7 how long it should legitimately take to implement  
8 those into the MMIS system in Montana.

9 Q. And that was part of a state  
10 contract?

11 A. It was a state contract, yes.

12 Q. And what year was that?

13 A. 1994.

14 Q. 1994. And do you know who you --  
15 did you submit a report?

16 A. I submitted a report to Fox Systems.

17 Q. Do you know if they in turn  
18 submitted that to the State of Montana?

19 A. I assume that they incorporated that, the  
20 findings in my report into their report that went  
21 to the contractor that they were working with that  
22 eventually went to the state.

23 Q. Who is Fox Systems?

24 A. Fox Systems is a consulting company. It's  
25 in Phoenix, Arizona. And they do a considerable

1 amount of consulting with states.

2 Q. Any other governmental consulting  
3 work that you've done?

4 A. Well, I'm not exactly sure how to define  
5 this, but I'll -- we have -- one of the companies  
6 I work for is Robert D. O'Byrne and Associates,  
7 and that company does a considerable amount of  
8 business with school districts and with local  
9 governments on designing and implementing their  
10 employee health plans or employee benefit plans  
11 generally. And I'm responsible for special  
12 projects. And so when there is analysis to be  
13 done, I would do that work.

14 Q. Fair enough. We'll get back to  
15 O'Byrne and Associates.

16 A. Okay.

17 Q. This consulting work that you've  
18 just been describing for us, that's since 1994?

19 A. Yes.

20 Q. Have you done, other than this,  
21 your contract with Fox Systems dealing with the  
22 MMIS, we touched upon the MMIS system, have you  
23 done any consulting work for a state Medicaid  
24 program?

25 A. No, I have not. No.

A. WILLIAM ROBERTS, JR. & ASSOCIATES

1           Q.       Now, let's get to your -- I know  
2     you have probably confidentiality agreements with  
3     your private clients, so I won't ask you to  
4     identify those until we get back to tobacco  
5     companies today. But generally what kind of the  
6     consulting work do you do for your private  
7     clients?

8     A.       Most recently I have been working, as I  
9     indicated, on special projects and that -- it's a  
10    health care analyst. And what I would -- for  
11    example, there would be a question from the  
12    employer concerning -- of companies of similar  
13    size, how many of those people offer HMO plans  
14    compared to PPO plans compared to indemnity  
15    plans. What are the provision of those plans?  
16    General information. How many offer short-term  
17    compared to long-term disability? And so I would  
18    be researching our own database, which -- our own  
19    client database. Not specifically identify  
20    companies who do that, because we would never do  
21    that, but, you know, just generally to get that  
22    information about our own database and then also  
23    to research through the web and through other  
24    sources and try to provide information and the  
25    whole idea being that an employer would be able to

1 design the most cost effective, efficient employee  
2 benefit plan that will help him attract staff and  
3 keep them. Lots of kinds of activities like that.

4 Q. Are any of your clients in the  
5 private sector insurance companies?

6 A. In terms of clients, I mean -- we have --  
7 I've had contracts with insurance companies, yes.  
8 Okay, yes, I have. In a few -- in a few occasions  
9 we actually do employee benefits for insurance  
10 companies, yes, where we're actually handling  
11 their employee benefit plans, but I've also done  
12 other work for insurance companies outside of  
13 employee benefits.

14 Q. What type of work was that?

15 A. I wrote a proposal for -- in response to  
16 the Kansas Medicaid proposal. The Kansas Medicaid  
17 RFP and I wrote the proposal.

18 Q. Request for proposal?

19 A. Request for proposal.

20 Q. I knew that.

21 A. I apologize. I thought everyone knew  
22 that. Even my clients know that. The State of  
23 Kansas put out a request for proposal for Medicaid  
24 services and my client wanted to respond and so I  
25 helped -- I helped them submit their proposal.

1 After they obtained that contract, then the state  
2 of Missouri issued two proposals in their  
3 geographical area for Medicare in Missouri for HMO  
4 care and I helped write and oversaw the  
5 development of the proposals for those two  
6 proposals.

7 Q. Have you ever looked, in the  
8 insurance context, looked at rate setting?

9 A. At rate setting?

10 Q. Let me clarify that for you. Rate  
11 setting for recipients or subscribers to an  
12 insurance plan.

13 A. Well, it's difficult to look at them  
14 because, other than to look at the number, the  
15 insurance company is not normally going to provide  
16 you with the backup in back of that rate.

17 Q. You're talking about, when you say  
18 the backup, you mean the actuarial information?

19 A. Yes. They're not normally going to do  
20 that, and so for insurance companies. Now, I did  
21 see the actuarial data that was developed in  
22 response to the Missouri RFP, and that was all  
23 covered by confidentiality, but I did see all of  
24 that and I did review that and I did ask questions  
25 about it and deal with that.

1 Q. So are you generally familiar then,  
2 Ms. Godbout, with actuarial information?

3 A. I am familiar with it. Yes, I am.

4 Q. Do you generally understand how it  
5 works?

6 A. Yes, I do.

7 Q. And do you also understand what can  
8 be gleaned from actuarial information?

9 A. Yes.

10 Q. We've just now talked about your  
11 consulting work in the public and private sector.  
12 Let's talk about the work you do -- before we get  
13 to that, I want you to look for me, please, if you  
14 could, at what's been marked as Exhibit 1 to your  
15 deposition.

16 A. You don't expect me to review these names?

17 Q. No, ma'am. Have you seen that  
18 before?

19 A. Have I seen this before? I don't recall  
20 seeing it, but doesn't mean that I haven't. I  
21 don't recall seeing it.

22 Q. For the record, then, this is the  
23 notice of deposition that asked you to appear  
24 today. Do you see the items listed under number  
25 one?

1 A. All documents reviewed by the witness in  
2 connection with his or her work in the case, is  
3 that what you're referring? Yes.

4 Q. Can you read the other two?

5 A. All documents relied upon by the witness in  
6 connection with his or her testimony including a  
7 copy of every study or work authored by another on  
8 which the witness relies. All documents prepared  
9 by the witness in connection with his or her  
10 testimony --

11 Q. I'll tell you what, let's go  
12 through these one by one. Okay? All documents  
13 reviewed by the witness in connection with his or  
14 her work in this case. I'm assuming this is going  
15 to be your attorney. If you'll look for me,  
16 please, on Exhibit 3 to your deposition,  
17 Ms. Schwartz provided this index of documents.  
18 Are these documents you reviewed in connection  
19 with your testimony in this case?

20 A. It's a very long list, but it is -- looking  
21 at the first page, I definitely reviewed all of  
22 these records and --

23 Q. Well, Ms. Godbout, your attorney is  
24 making a representation that these are documents  
25 that you have reviewed and intend to rely on, and

1 I need to know whether or not that's correct.

2 A. And I'm going through the pages. And I  
3 looked at the documents on page two.

4 MR. HAY: If there's anything on  
5 the list that you don't remember reviewing, you  
6 might want to mark it and come back and look at it  
7 or whatever.

8 THE WITNESS: Okay.

9 MR. HAY: And just before you go  
10 forward, counsel has provided me with an index of  
11 additional documents that -- the index that you  
12 just looked at, as I understand it, represents  
13 documents that were produced by the plaintiffs in  
14 this case. In addition, other documents have been  
15 indicated in Ms. Schwartz' letter and plaintiff  
16 has kindly prepared an index of those documents or  
17 what purports to be an index of those documents.  
18 So why don't you look at those documents as well.

19 A. Do you want me to do that before you do  
20 this?

21 Q. Please.

22 MR. YOUNG: For identification  
23 purposes, can we have that marked.

24 (Exhibit Godbout 4 is marked for  
25 identification.)

1 A. On page three of the Exhibit 3, it mentions  
2 records and tape transmittal, February 1991.

3 Q. Can you give me the Bates numbers  
4 on that, MED?

5 A. MED 0111959-0111969. I haven't seen any  
6 magnetic tapes. I'm assuming that this is -- I  
7 can't assume. If there was a magnetic tape that I  
8 was supposed to have looked at, I did not.

9 Q. Well, okay.

10 A. If it's a document that concerns the  
11 records and the magnetic tape, then I did look at  
12 it.

13 Q. Okay. These documents, other than  
14 the noted exception that you just made between  
15 Exhibits 3 and 4, are there any other documents  
16 that you plan on reviewing concerning your  
17 testimony in this case?

18 MR. HAY: Well, let me object to  
19 that question on the grounds that the plaintiffs  
20 are still producing documents pursuant to our  
21 request and there may be occasions where we are  
22 going to give the witness both documents and  
23 depositions of witnesses and things, to the extent  
24 that they are produced. And the witness couldn't  
25 possibly know what is going to be produced

1 necessarily is my point.

2 MR. YOUNG: You done?

3 MR. HAY: Yeah.

4 Q. Did you formulate your opinions in  
5 this case based upon the documents described in  
6 Exhibit 3 and Exhibit 4?

7 A. Yes, to date. And I intend to continue to  
8 work and continue to review these documents and  
9 other documents up and through May.

10 Q. Well, Ms. Godbout, have you asked  
11 for other information?

12 A. Not to date, no.

13 Q. Well, are you able to formulate  
14 your opinions for this case based upon the  
15 documents identified in Exhibits 3 and 4?

16 A. In the documents that are in three and  
17 four, I am still reviewing those documents and I  
18 intend to continue to review those documents, and  
19 if reviewing those documents I identify other  
20 documents that I need to rereview, I will do that.

21 Q. Well, is it possible that your  
22 opinions could change in this case?

23 A. That my opinions could change? I doubt  
24 that they're going to change from what they are,  
25 but I can't say that. I can't tell you that.

1           Q.           Ms. Godbout, I'm asking you, you  
2   formulated your opinions, did you not, based upon  
3   the documents identified in Exhibits 3 and 4. Is  
4   that right?

5   A.           Yes.

6           Q.           But you're telling me that you're  
7   still reviewing these documents and it's possible  
8   that your opinions may change based upon your more  
9   thorough review of these documents?

10                   MR. HAY: Object to the form of the  
11   question. I don't think she said that.

12   A.           I'm saying that I am still reviewing  
13   documents and that I may ask for additional  
14   documents in order to further review the operation  
15   of the program in the Mississippi Medicaid  
16   program.

17           Q.           Ms. Godbout, my question to you,  
18   you've prepared, did you not, a disclosure  
19   statement saying what your testimony is going to  
20   be in the State of Mississippi's case, did you  
21   not?

22   A.           Yes, I did.

23           Q.           Was that disclosure statement  
24   prepared in your opinion, are they prepared in  
25   connection with your review of the documents

1 described in Exhibits 3 and Exhibit 4?

2 A. Yes.

3 Q. Are you telling me that you are  
4 still reviewing those documents that are  
5 identified in these two exhibits as we speak?

6 A. Yes.

7 Q. And that it's possible that your  
8 opinions would change based upon your thorough  
9 review of those documents?

10 A. My opinions as stated in what you called  
11 Exhibit 2 will not change.

12 Q. Will not change. Have you  
13 requested that the tobacco industry provide you  
14 with any additional documents in order -- for your  
15 testimony in this case?

16 A. I have not asked the tobacco industry to do  
17 that, no.

18 Q. Well, you just sat here and  
19 testified that you wanted to look at more  
20 information prior to trial. What information is  
21 that, Ms. Godbout?

22 MR. HAY: I object to your  
23 characterization of her testimony. She didn't say  
24 she wanted to look at more documents. She said  
25 she was going to continue to review these

1 documents and if other documents are then  
2 identified she would ask for those, but she hasn't  
3 said she asked --

4 A. If something comes to my attention --

5 MR. YOUNG: Counsel, I'm going to  
6 ask you -- there's a case management order in this  
7 case which requires nothing but object to the  
8 form. Speaking objections are not allowed, and  
9 I'm going to ask you to refrain from that,  
10 please.

11 Q. Now, Ms. Godbout, have you asked  
12 that the tobacco industry provide you with any  
13 additional documents in order for you to either  
14 confirm, change or alter your opinions in this  
15 case?

16 A. No, not to date.

17 Q. Do you plan on asking them for any  
18 additional documents?

19 A. I have no plan to date to do that.

20 Q. Do you have a plan before trial to  
21 ask them to produce to you any additional  
22 documents?

23 A. I do not have a plan to do that to date.  
24 Something may come to my attention that changes  
25 that plan, but nothing has come to my attention to

1 date that would do that but, no, I have no plan to  
2 do that.

3 Q. Have you looked at any of the  
4 claims data for the Mississippi Medicaid action?

5 A. Actual claims payment? No.

6 Q. The MMIS data tapes, have you  
7 looked at those?

8 A. No, I have not.

9 Q. Do you think that's necessary for  
10 you to review the claims data tapes in order to  
11 draw your opinions in this case?

12 A. No.

13 Q. You prepared a report in this case,  
14 have you not?

15 A. Actually I had drafted notes that I sent  
16 but I do not -- I was not required to prepare a  
17 report and so -- and I wasn't required to submit  
18 reports as I went along and so outside of those  
19 first preliminary reports, I have not submitted  
20 written reports, no.

21 Q. Well, why did you -- if you weren't  
22 asked, why did you submit a report?

23 A. A preliminary report? It's the way that I  
24 normally do business is to write down what I  
25 find. But -- it's because -- it's a practice that

1 I usually have to adhere to.

2 Q. You call that a draft report. Is  
3 that right?

4 A. It was an early draft report.

5 Q. Have you since made changes to that  
6 report?

7 A. I haven't made -- I have not made written  
8 changes to that report.

9 Q. Well, do you plan on making written  
10 changes to that report?

11 A. Not necessarily. I'm not required to  
12 submit a report.

13 Q. I'm not asking are you required.  
14 I'm saying do you plan on doing it.

15 A. No.

16 Q. So that's your report as you stand  
17 by it?

18 A. No, it's not my report as I stand by it.  
19 It is a written draft of my preliminary work from  
20 the early stages of my work and I am not -- and I  
21 do not plan to draft a complete report.

22 Q. So you're telling me that you're  
23 not going to submit a final report for your  
24 testimony in this case?

25 A. I am going to prepare myself to testify in

1 June.

2 Q. I understand. That was not my  
3 question. My question was do you plan to prepare  
4 a final report for your testimony in this case?

5 A. No.

6 Q. Your work with the tobacco  
7 industry, Ms. Godbout, when were you first  
8 contacted by the industry?

9 A. I was first contacted by the attorneys for  
10 the industry in December.

11 Q. Have you ever done any work for the  
12 tobacco industry before?

13 A. No, I have not.

14 Q. Who contacted you?

15 A. Mr. George Kalkines.

16 Q. Ms. Godbout, when Mr. Kalkines  
17 contacted you, what did he tell you?

18 A. He indicated that he was -- I can't repeat  
19 the conversation word for word. It happened in  
20 December, but basically he indicated that they  
21 were looking for someone that had expertise in the  
22 Medicaid program to look at certain issues  
23 concerning -- I'm not sure he at first told me  
24 what was involved, but he did say he was looking  
25 for someone that had expertise in the management

1 and Medicaid program to do some consulting work  
2 and that someone had recommended me.

3 Q. Would that be in December of '96?

4 A. Yes.

5 Q. And did he say who that someone was  
6 who recommended you?

7 A. No, he did not.

8 Q. Recommended you. I'm sorry.

9 A. I'm sorry, I apologize. No, he did not  
10 indicate at that point.

11 Q. Okay. What happened after that  
12 initial conversation?

13 A. Well, first I discussed that with the  
14 people that managed -- that own Robert D. O'Byrne  
15 and Associates, and they are not interested in  
16 being involved in government type work and that  
17 kind of consulting work and in fact want my time  
18 limited to dealing with health care issues and so  
19 they were not interested in this contract. And I  
20 was interested in it so we negotiated the fact  
21 that I would have considerable vacation time to  
22 work on the contract. And so then I informed  
23 Mr. Kalkines that I was willing to do it.

24 Q. You said Robert O'Byrne?

25 A. Uh-huh.

A. WILLIAM ROBERTS, JR. & ASSOCIATES

1 Q. They didn't want the contract?

2 A. Right.

3 Q. Tell me the reasons they expressed  
4 why they didn't want the contract.

5 A. They indicated that there were two major  
6 reasons. One, they did not want my time used for  
7 that. They wanted my time used for other  
8 activities. And, two, they expressed -- some  
9 people expressed some concern about how that would  
10 be viewed by our -- their governmental clients.

11 Q. How what would be viewed?

12 A. My testifying for the tobacco industry.

13 Q. What did they say about that?

14 A. They thought that it may not have been  
15 viewed as something that the clients would  
16 appreciate.

17 Q. Do you know why?

18 A. No, I do not know why. I disagreed with  
19 them.

20 Q. So you were interested in the  
21 contract, right?

22 A. Yes.

23 Q. When was St. Francis LLP -- is that  
24 right?

25 A. Yes.

1 Q. -- formed?

2 A. I don't know for sure. I think -- I'm not  
3 an owner, so -- I'm not a partner. I don't know.

4 Q. Is your husband an owner?

5 A. No.

6 Q. Do you work for them?

7 A. Yes, I do.

8 Q. Is that who the contract with the  
9 tobacco industry is through?

10 A. Yes.

11 Q. When did you go to work for St.  
12 Francis?

13 A. In January of 1997.

14 Q. Who are the owners?

15 A. My mother and father are partners. My  
16 brother is a partner and my sister is a partner.  
17 I don't know what -- I don't know what rate  
18 they're partners and I don't know if they have any  
19 other partners. But I'm assuming that they  
20 generally own most of it.

21 Q. Was this business set up in order  
22 to accommodate the contract for the tobacco  
23 industry?

24 A. No, it wasn't.

25 Q. It just coincides, the dates

A. WILLIAM ROBERTS, JR. & ASSOCIATES

1 coincide. Is that right?

2 A. The St. Francis LLP has been in business  
3 previous to January of 1997.

4 Q. Okay. When were they in business?

5 A. I can't -- I really can't answer that  
6 question. I think it was sometime in 1996.

7 Q. Early 1996, late 1996?

8 A. I really don't know.

9 Q. When did St. Francis -- other than  
10 this contact with the tobacco industry, does St.  
11 Francis LLP have any other clients?

12 A. No, I think basically the -- not that I  
13 know of.

14 Q. This is their one and only client  
15 then?

16 A. I think it's basically set up for real  
17 estate ownership. I believe that, but, again, I  
18 don't know everything they do.

19 Q. Is it a real estate company?

20 A. No, it's not.

21 Q. Ms. Godbout --.

22 A. I can't answer exactly what they do. You  
23 would have to ask -- the chief operating officer  
24 is Fred J. Godbout, and I'm sure he can answer  
25 your question.

1 Q. Ms. Godbout, you work for St.  
2 Francis LLP, do you not?

3 A. Yes, I do.

4 Q. You don't know what they do?

5 A. I know my contract requires me to do the  
6 consulting work on this contract, and I do  
7 everything about that. I do not know what other  
8 things they do.

9 Q. You work for a company and you  
10 don't know what they do other than this contract  
11 that you have with the tobacco industry?

12 A. I know that the business was set up to deal  
13 with the ownership of real estate, but I do not  
14 know the specifics.

15 Q. How much vacation time are you  
16 taking from Robert O'Byrne and Associates?

17 A. At least six weeks.

18 Q. When did that start?

19 A. In January of 1997.

20 Q. Has the tobacco industry asked you  
21 to provide consulting work for testimony in any of  
22 the other state cases?

23 A. Yes.

24 Q. Which ones?

25 A. Florida.

A. WILLIAM ROBERTS, JR. & ASSOCIATES

- 1 Q. Any others?
- 2 A. There's been discussion of Texas.
- 3 Q. They provided you retainers for
- 4 those cases?
- 5 A. No.
- 6 Q. Have you been doing work on any of
- 7 those cases?
- 8 A. Had some minimal conversation about
- 9 Florida.
- 10 Q. When you were contacted after
- 11 Mr. Kalkines contacted you initially and told you
- 12 he needed someone to consult in this particular
- 13 area, did a meeting follow or was it a phone
- 14 conversation that followed?
- 15 A. I think there was a phone conversation
- 16 asking for a meeting. And then there was a
- 17 meeting.
- 18 Q. Okay. Where was that meeting held?
- 19 A. Here in New York at their offices.
- 20 Q. Who was here?
- 21 A. Mr. Henry Fieldman and I don't remember, I
- 22 think Mr. Hay may or may not have been in the
- 23 meeting, and I do know Mr. Fieldman was in the
- 24 meeting and Mr. Kalkines stopped by.
- 25 Q. Anybody else?

1 A. Not that I recall.

2 Q. What was discussed at that meeting?

3 A. What they were asking, that we would  
4 discuss the type of consulting services they were  
5 asking me to provide.

6 Q. Which was?

7 A. They were asking me to review the records  
8 and materials provided by the State of Mississippi  
9 and whatever -- and other materials to determine  
10 if there were adequate controls in Mississippi to  
11 properly manage their program.

12 Q. Did they tell you why that was  
13 important?

14 A. They told me that this was in relationship  
15 to the lawsuit that had been filed against Philip  
16 Morris by the State of Mississippi.

17 Q. Did they tell you why saying that  
18 the Medicaid system, the controls, fraud, things  
19 of that nature wherein the Mississippi Medicaid  
20 system were important to the case?

21 A. That they -- they told me that there was a  
22 model that had been -- models, more than one model  
23 that had been developed using the Medicaid  
24 expenditures as a basis for determining damages.

25 Q. And did they tell you why? Did

1 they go further with that?

2 A. I don't understand.

3 Q. Well, what did they ask you to do?

4 A. They asked --

5 Q. Besides review documents?

6 A. They asked me to review documents for the  
7 purpose of testifying on the -- on the Medicaid  
8 program as it is operated in Mississippi.

9 Q. Ms. Godbout, I'm interested, did  
10 you review the models?

11 A. I've looked at the models, yes.

12 Q. You have?

13 A. Yes.

14 MR. YOUNG: Those weren't provided  
15 to us.

16 MR. HAY: If they weren't on the  
17 list, it's an inadvertent -- it's a mistake on my  
18 part or my firm's part. She looked at one  
19 iteration of the model fairly early on. I know  
20 for a fact it's been changed since then, but  
21 before the deposition ends I'll give you a copy of  
22 the version she looked at. I apologize for that.

23 A. I apologize. I've looked at this list and  
24 I -- there's a lot of things on there and I  
25 apologize if I missed --

1           Q.       I'm not trying to be argumentative  
2 or anything of that nature. My role here is to  
3 find out, and understand that, to find out what  
4 you're relying on to help me understand where your  
5 testimony is coming from. And if I have you  
6 sitting here telling me I may look at this later  
7 on or I'm not sure I looked at all these  
8 documents, it's hard for the State of Mississippi  
9 to understand what the basis for your testimony,  
10 your complete basis for your testimony. You can  
11 appreciate that, can't you?

12       A.       Yes, I can appreciate that.

13           Q.       Okay. So, now we understand that  
14 you've reviewed the models.

15       A.       I would just like to say that you asked me  
16 if I was relying on these documents to form my  
17 opinion.

18           Q.       I understand.

19       A.       And I answered yes to that question. I am  
20 not relying on the model to -- the models that I  
21 saw. I am not relying on those models to form my  
22 opinion.

23           Q.       I understand. Now, are you going  
24 to talk about the models at all? Do you plan on  
25 discussing the models or the methodologies that

1 the state's using to calculate its damages at all?

2 A. When you mean discuss it, do you mean  
3 discuss it in court or discuss it with  
4 individuals?

5 Q. Either.

6 A. I don't plan on doing it right now.

7 Q. Are you going to testify at trial  
8 concerning the methodologies or the methods  
9 employed by the state to calculate its damages,  
10 Ms. Godbout?

11 A. I'm not going to testify on the models.

12 Q. Which models have you reviewed?

13 A. I reviewed in January, a document that  
14 was -- two documents that were the models, and I'm  
15 sorry I cannot recall the author of either model.

16 Q. Was it Vince Miller?

17 A. Yes, I think one of those was, yes.

18 Q. Were any of the models Wendy Max?

19 A. I remember that it was a woman. It could  
20 have been that, but I can't testify for sure that  
21 it was Wendy Max.

22 Q. If I tell you that she's the only  
23 woman working on the case, would that help you?

24 A. Then I would agree that that's who it was.

25 Q. What was your purpose in reviewing

1 the models, Ms. Godbout?

2 A. I was curious about how you could use --  
3 how you could take the data that you have  
4 available to you on a Medicaid program and  
5 actually use that to actually determine how much  
6 would be expended on smoking-related illnesses. I  
7 was curious about how you could do that.

8 Q. Did you satisfy your curiosity?

9 A. No.

10 Q. Okay. Are you an expert in  
11 econometrics?

12 A. No.

13 Q. Are you an expert in economics?

14 A. No.

15 Q. Are you expert in statistics?

16 A. I have numerous classes in statistics.

17 Q. Do you consider yourself an expert  
18 in statistics?

19 A. No.

20 Q. Are you an expert in epidemiology?

21 A. No.

22 Q. After that meeting with  
23 Mr. Kalkines, after that meeting with Mr. Kalkines  
24 where Mr. Fieldman stopped by and you believe that  
25 Mr. Hay may have been present or came by

1     sometime --

2     A.       I indicated that the meeting was with  
3     Mr. Fieldman and Mr. Kalkines stopped by.

4             Q.       Okay.

5     A.       Yes.

6             Q.       So what was your marching orders  
7     when you left that meeting?

8     A.       I was asked to review a number of documents  
9     that were available concerning the Mississippi  
10    Medicaid program, and I was also told that there  
11    were numerous other documents available and that  
12    if I would like to look at those documents simply  
13    to ask for them and I would be given them. And  
14    that --

15            Q.       Did you -- I'm sorry. Are you  
16    finished?

17    A.       And if there are documents that I wanted to  
18    see that had not been provided and that could not  
19    be located, to tell them that; they would try to  
20    obtain those from the state.

21            Q.       Did you ask for documents?

22    A.       I asked for numerous documents, yes.

23            Q.       Did you do that in the form of  
24    correspondence?

25    A.       No, I did not do that.

1 Q. How did you do that?

2 A. I usually either asked in person or asked  
3 on the telephone.

4 Q. Were you provided all those  
5 documents?

6 A. In some cases the document that I was  
7 asking for had not been provided by the state, and  
8 so I wasn't provided that, but I was able to find  
9 another document that answered the same kind of  
10 question. I can't think of any outstanding  
11 documents that I'm looking for at this time.

12 Q. That brings us to an interesting  
13 point. On Exhibit 4, did you obtain those  
14 documents?

15 A. Excuse me?

16 Q. On Exhibit 4, did you obtain those  
17 documents?

18 MR. HAY: Object to the form of the  
19 question.

20 A. In some cases, I was sent the document by  
21 Mr. Hay or one of his associates. In fact, most  
22 of -- I would have to go through every single one  
23 of them but --

24 Q. Well, let's -- can you tell me  
25 which ones maybe that you obtained or how many of

1     them you obtained?   Strike that.

2                     This is not intended to trick you  
3     or try to be tricky.   I just want to know are  
4     those documents on there publicly available  
5     documents, to the best of your knowledge?

6     A.         Well, I mean, basically any document in  
7     government is a publicly available document.

8             Q.         Fair enough.   Did you actually in  
9     your search, did you do a search for documents  
10    that you were interested in reviewing?

11    A.         Yes, I did.

12             Q.         How did you search for documents?

13    A.         Well, in some cases I wanted to reacquaint  
14    myself and reaffirm what I believed to be federal  
15    regulations or laws, and how I did that is I went  
16    to -- CD ROM is provided by HCFA every month and I  
17    read that because it's faster and easier than  
18    reading it in hard copy.

19                     In some cases -- I did a search in  
20    some cases of -- I did searches of GAO, the  
21    general accounting office, of their studies to see  
22    what -- if there were recent studies, and I did  
23    that on the web, the Internet.   I looked to the  
24    Mississippi Medicaid page, web page to see what  
25    information was there.

1 Q. There's a lot of stuff, isn't  
2 there?

3 A. There certainly is. And I didn't make hard  
4 copies of any of that information, but I certainly  
5 did review materials that were there.

6 Q. Ms. Godbout, did you identify that  
7 you reviewed all this information and produce this  
8 to us?

9 A. I did indicate to -- to Ms. Schwartz that I  
10 had in fact reviewed the documents on the CD ROM  
11 and that I had looked at that web -- that Medicaid  
12 web page for Mississippi. I indicated that I had  
13 done that, and I sent her copies of the -- I had  
14 relied on a congressional report on Medicaid from  
15 1991, and I sent her -- it's a huge document, but  
16 I did send her copies of the page I had reviewed  
17 on that.

18 Q. This brings us to another  
19 interesting point. In determining or forming your  
20 opinions in this particular case, you said you  
21 reviewed the HCFA regulations. You pulled them up  
22 actually on CD ROM. Is that right?

23 A. Yes, I did.

24 Q. Those would be the current  
25 regulations?

1 A. Yes.

2 Q. Do you know the span or what the  
3 state's claim of damages is on the years?

4 A. Excuse me. I may have answered that  
5 question wrong. On the CD ROM there is current  
6 regulations and regulations back into I think at  
7 least 1984. So it's not -- I was not just looking  
8 at current regulations. I was looking at prior  
9 period regulations, too.

10 Q. Okay. Did you go back prior to  
11 1984?

12 A. Some regulations would be prior to 1984  
13 because they were in effect in 1984 and they had  
14 actually been enacted in 1979 or 1965. The Social  
15 Security Act, parts of the Social Security Act  
16 have been in force since 1965. Other parts have  
17 been in force for much shorter periods.

18 So when I looked to the Social  
19 Security Act, I'm looking to the Social Security  
20 Act as it was originally written and as it has  
21 been amended for the last 20 years.

22 Q. Have you been advised that the  
23 period of damages, at least as it relates to  
24 Medicaid, that the state is claiming goes back to  
25 1970?

1 A. Yes.

2 Q. Did you form a separate opinion for  
3 each year based upon the federal regulations that  
4 were in place at that time?

5 A. No, I did not. And I'm not relying, I did  
6 not say that I was relying on the federal  
7 regulations to form my opinion. I said I was  
8 referring to the federal regulations to reassure  
9 myself of what those regulations said. Because I  
10 have dealt with those regulations since 1979 and I  
11 did not need to learn what those regulations were.

12 Q. Okay. My question, though,  
13 Ms. Godbout, is for each year from the inception  
14 of the Medicaid program, did you form a separate  
15 opinion for each of those years based on the  
16 regulations that were in place at the time, the  
17 federal regulations that were in place at that  
18 time?

19 A. No.

20 Q. I want to make sure I didn't  
21 misunderstand you. Are you saying that the  
22 federal regulations you reviewed were not  
23 important in forming your opinions in this  
24 particular case?

25 A. I said that I was reviewing those federal

1 regulations to assure myself that I remembered  
2 accurately what those regulations said.

3 Q. Okay. Do those federal  
4 regulations, did they help form the basis for your  
5 opinions in this case?

6 A. The federal regulations on Medicaid  
7 definitely help me to form my opinion, yes.

8 Q. Okay.

9 A. But not just the review that -- not just  
10 the very short review of those records that I did  
11 most recently but --

12 Q. Fair enough. Your general  
13 knowledge of the regulations?

14 A. Yes.

15 Q. Okay. But nevertheless they did  
16 help form the basis of your opinion?

17 A. Yes.

18 Q. Okay. After that meeting when was  
19 your next conversation with either the tobacco  
20 industry or the attorney for the tobacco industry?

21 A. I've never spoken to anyone from the  
22 tobacco industry. I've only spoken to the  
23 attorneys in this office. Those are the only  
24 individuals I've ever spoken to.

25 I had regular conversations with

1 Mr. Hay on an at least weekly basis from January  
2 through today. And I have been in New York --  
3 this is the third time I've been in New York to  
4 review records.

5 Q. You said you've never spoken with  
6 anybody from the tobacco industry. Have the  
7 attorneys for the tobacco industry provided you  
8 with any documents, internal documents as to  
9 whether or not they've looked at the cost of  
10 smoking to public programs such as Medicaid?

11 A. No.

12 Q. Would you be interested in  
13 reviewing those documents in forming your opinions  
14 in this case?

15 A. No.

16 Q. Why not?

17 A. Because my expertise is in the area of  
18 Medicaid.

19 Q. That's what I'm saying, Doctor -- I  
20 mean, Ms. Godbout. If the tobacco industry had  
21 internal documents regarding the costs of smoking  
22 to public programs such as Medicaid, in  
23 particular, would you not be interested in  
24 reviewing those documents in order to form your  
25 opinion in this case?

1 A. If they had records that -- where they had  
2 done research? My role here in this case is to  
3 review the operation of the Medicaid program in  
4 Mississippi and to form opinions on the  
5 Mississippi Medicaid program and the necessity of  
6 expenditures they incurred, and I don't see how  
7 that general information would impact my opinion.

8 (There is a recess from the  
9 record.)

10 Q. Ms. Godbout, have you ever smoked?

11 A. Yes.

12 Q. Do you smoke currently?

13 A. Occasionally. Not often.

14 Q. How much do you smoke?

15 A. When I'm around friends that do. Not -- I  
16 don't know. A pack a month.

17 Q. A pack a month?

18 A. Maybe. I don't know.

19 Q. You're a very judicious smoker.

20 What brand do you smoke?

21 A. Other people's. I buy -- sometimes I buy a  
22 package but...

23 Q. What do you generally buy when you  
24 buy?

25 A. I don't know. What's there. Marlboro or

1 Merits or -- I don't know.

2 Q. How long have you been smoking?

3 A. Off and on probably for, I don't know, 30  
4 years, maybe.

5 Q. Did you ever smoke a pack a day?

6 A. I don't ever think I smoked a pack a day.  
7 I probably smoked more than I do now when I was a  
8 social worker.

9 Q. Has your physician ever told you to  
10 quit smoking?

11 A. No.

12 Q. No one ever told you to quit  
13 smoking?

14 A. Yes. My father has.

15 Q. Why did he tell you to quit  
16 smoking?

17 A. He doesn't like smoking.

18 Q. Why is that?

19 A. He doesn't like the smell of it. He  
20 doesn't think women should smoke.

21 Q. Do you think cigarettes are  
22 harmful?

23 A. I really -- I don't know.

24 Q. Do you think they're addicting?

25 A. As in if you start smoking you can never

1 stop again? What does addictive mean to you?

2 Q. I don't know, you tell me.

3 A. No.

4 Q. Are you addicted to cigarettes?

5 A. No.

6 Q. Have you quit for any substantial  
7 period of time?

8 A. There's been long periods of time when I  
9 haven't smoked at all.

10 Q. What's the longest you've gone  
11 without smoking?

12 A. Oh, probably about two, three years. I  
13 mean, basically it's when everybody else is  
14 smoking is when I smoke.

15 Q. Your work, Ms. Godbout, as  
16 consulting work working with the state agencies,  
17 Medicaid programs, have you ever looked at the  
18 health care cost associated with cigarettes or  
19 tobacco?

20 A. No.

21 Q. Never once?

22 A. No.

23 Q. In your work with actuarial tables,  
24 have you ever looked at cigarette smoking as a  
25 cost?

1 A. I've never actually worked with actuarial  
2 tables myself.

3 Q. You've said you reviewed them?

4 A. I said I was familiar with them and I  
5 reviewed them, but I have not -- I've not  
6 actually -- I've never put together a set of  
7 actuarial tables. If that's what you think I  
8 said, I did not do that.

9 Q. No, I haven't said you put them  
10 together. I said have you seen them.

11 A. Yes, I've seen them.

12 Q. And you generally understand how to  
13 glean information from them?

14 A. Yes, I do.

15 Q. Do you recall any of the actuarial  
16 tables including smoking?

17 A. I can't say that I recall the specifics at  
18 this time.

19 Q. I see you got your M.B.A. in 1979?

20 A. Yes.

21 Q. Have you had any formal computer  
22 education?

23 A. I have had numerous classes in software,  
24 the use of software for personal computers. I've  
25 also had a class in systems engineering, and that

1 systems engineering is used as a basis for  
2 designing systems, databases, top down approach,  
3 trying to alleviate the numerous problems that  
4 we've had throughout the years in developing  
5 proper systems. And my staff and I took a class  
6 on -- that was specifically designed to help us  
7 learn how to better design systems when we started  
8 building the MMIS in Virginia. It was a week-long  
9 class.

10 Q. Your staff in Virginia?

11 A. Yes. And staff from other divisions.

12 Q. Any formal education in accounting?

13 A. I have numerous classes in accounting, when  
14 I was getting my M.B.A.

15 Q. Do you have a CPA?

16 A. No, I do not.

17 Q. Do you consider yourself an  
18 actuary?

19 A. No.

20 Q. Have you ever written or published  
21 any articles?

22 A. No.

23 Q. Have you ever been a teacher or  
24 lecturer?

25 A. I've taught classes on family and

1 prenatal -- I've taught classes to pregnant  
2 teenagers on parenting skills.

3 Q. Where did you do that?

4 A. I did that in, I would say -- it had to be  
5 sometime between 1972 and 1975.

6 Q. Where?

7 A. In Butte, Montana.

8 Q. Were these pregnant teens?

9 A. Yes.

10 Q. Did you talk to them about prenatal  
11 care?

12 A. Yes, I did. Actually I talked to them  
13 generally about that. The purpose of the class  
14 was parenting skills. And they were not all  
15 pregnant. Some of them were parents.

16 Q. Did you discuss smoking as it  
17 concerns --

18 A. No.

19 Q. Drug abuse?

20 A. No.

21 Q. Alcohol?

22 A. No.

23 Q. Have you in connection with your  
24 involvement in this case, have you had an  
25 opportunity to meet a Mr. Luckett?

1 A. No.

2 Q. Mr. Lawrey?

3 A. No.

4 Q. Mr. Simons?

5 A. No.

6 Q. Mr. Wecker?

7 A. No.

8 Q. Mr. Worm?

9 A. No.

10 Q. Mr. Verhalen?

11 A. No.

12 Q. Mr. Long?

13 A. No.

14 Q. Other than reviewing these

15 documents on Exhibit 4 and Exhibit 5, you

16 testified earlier that you had not looked at the

17 actual claims data. Is that correct?

18 A. That's correct. Yes.

19 Q. Did you say that it was not

20 necessary in formulating your opinionss in this

21 case --

22 A. Yes.

23 Q. -- for you to look at that claims

24 data?

25 A. Yes, I did say that.

1 Q. And do you stand by that statement?

2 A. Yes, I do.

3 Q. Okay. In your preparation for your  
4 testimony in this case have you talked to anyone  
5 at the Division of Medicaid in the State of  
6 Mississippi?

7 A. I spoke to one individual and I do not know  
8 what her name is. I called the agency and asked  
9 to be informed about their implementation to  
10 managed care, and I called the director's office  
11 and I was referred to someone who would be able to  
12 answer those questions, and I did not write down  
13 her name and she answered my question concerning  
14 implementation of managed care and where they were  
15 at and how long -- what counties had been  
16 implemented.

17 Q. You don't remember her name?

18 A. I do not.

19 Q. How long did that conversation  
20 last?

21 A. Maybe ten minutes. Sh. answered --

22 Q. All your questions in ten minutes?

23 A. I didn't have -- I asked her where they  
24 were at in terms of implementation and she  
25 answered that. And I didn't have --

1           Q.       Well, tell me, if you can, to the  
2 best of your knowledge the exact question that you  
3 asked our Division of Medicaid.

4       A.       I asked if they had implemented a managed  
5 care program, and if they had implemented it, what  
6 type had they implemented and how long -- how much  
7 it had been implemented throughout the state.

8           Q.       Okay. And did she respond to your  
9 questions?

10      A.       Yes, she did.

11      Q.       And what was the response?

12      A.       She indicated that they had implemented a  
13 gatekeeper program in some counties and that they  
14 had implemented -- they were implementing an HMO  
15 in some counties and had read waivers to do both  
16 and had received permission to expand.

17      Q.       Did she say how far back they had  
18 done this, or did you ask her how far back, or was  
19 this for the current fiscal year? What parameters  
20 did you place on your request?

21      A.       I didn't place a parameter. I asked if  
22 they had implemented and if it was statewide.  
23 That was what I asked. I asked if it was  
24 implemented and if it was statewide. And she said  
25 those were the two programs that were implemented

1 and she indicated the number -- she estimated the  
2 number of counties that had been implemented and  
3 that they had plans for additional counties.

4 Q. Well, Ms. Godbout, did you relay  
5 that you had talked to the -- one of our employees  
6 to the counsel for the tobacco industry?

7 A. I don't know if I did or not.

8 Q. Did you use that information in  
9 formulating your opinions in this case?

10 A. I didn't have to because I got the records  
11 so that I knew exactly what -- I know exactly and  
12 I have received materials and the waivers so that  
13 I know exactly what has been implemented.

14 Q. And for what years?

15 A. Yes.

16 Q. Okay. Did you ask your counsel's  
17 permission before you contacted our client?

18 A. No. That's all public information. I have  
19 a right to ask.

20 Q. Well, no, ma'am, you don't.

21 Okay. So I'm going to ask you  
22 then --

23 MR. YOUNG: And I'm going to ask  
24 counsel all communications she's had, if this is  
25 not the only one, with our client in the State of

1 Mississippi.

2 MR. HAY: This is the first I heard  
3 of this conversation, so.

4 Q. Any other conversations,  
5 Ms. Godbout?

6 A. None whatsoever.

7 Q. Have you talked to any former  
8 employees of the Division of Medicaid in the State  
9 of Mississippi?

10 A. No, I haven't.

11 Q. So in formulating -- other than  
12 your communications with this one individual who  
13 you can't remember in our Division of Medicaid,  
14 you formulated your opinions -- well, first of  
15 all, you're saying that you no longer count on the  
16 information that you got from this individual in  
17 formulating your opinions. Is that correct?

18 A. That's correct.

19 Q. So as it stands -- as we sit here  
20 today, the opinions you formed in this case do not  
21 depend one way or the other on your talking with  
22 any individual from the Mississippi Medicaid  
23 division?

24 A. Yes.

25 Q. You served as director or secretary

1 of National Medicaid Directors Association in  
2 1981?

3 A. Yes.

4 Q. Was that a one-year stint?

5 A. Yes.

6 Q. What were your duties during that  
7 time?

8 A. The major duty is, at that time was to  
9 serve on a technical advisory group with the  
10 Health Care Financing Administration.

11 Q. To look at what?

12 A. We discussed a number of issues, whether  
13 there were disagreements between the states and  
14 the Health Care Financing Administration on how  
15 the Medicaid program should be implemented; and as  
16 secretary of the association, I was responsible  
17 for reviewing the minutes that were kept of those  
18 meetings and that were written by an employee of  
19 Health Care Financing Administration.

20 Q. I also see where you served as  
21 chairman of the state's Medicaid Advisory Council  
22 from 1983 to 1985. Is that correct?

23 A. That's correct.

24 Q. Is that a national chair or is it a  
25 state chair?

1 A. State.

2 Q. And what state was that?

3 A. Montana.

4 Q. Who did you advise?

5 A. The advisory group -- the group is to  
6 advise the governor on the operation of the  
7 Medicaid program. That's why it's established.

8 Q. Did you issue reports or did you  
9 meet with him informally or how was that done?

10 A. There were not meetings with the governor.  
11 There were meetings of the group and actually the  
12 advice was to the head of the Department of Social  
13 Services who sat in the governor's cabinet, and I  
14 do not have personal knowledge of what kind of  
15 conversations that individual or those individuals  
16 had with the governor.

17 Q. Have you ever in your work with  
18 Medicaid agencies worked with third-party  
19 liability?

20 A. Yes, I have.

21 Q. What's the extent of your  
22 involvement?

23 A. I managed third-party liability for four  
24 years in Montana and for three years in Virginia.

25 Q. Is it an important section of the

1 Medicaid division?

2 A. Yes, it is.

3 Q. Why is that?

4 A. Because it's one of the major ways you have  
5 of avoiding costs that you're mandated to pay.

6 Q. When you say avoiding cost, what do  
7 you mean?

8 A. By giving a third party who is actually  
9 responsible for those costs, to pay those  
10 expenditures you can avoid -- you can avoid  
11 incurring those expenditures.

12 Q. Why is that important?

13 A. Why is it important? It's important to  
14 keep -- to keep the cost of the Medicaid program  
15 down to operate it efficiently.

16 Q. Any other involvement with the  
17 third-party liability section of the Medicaid  
18 division? Did you ever oversee it? Did you --

19 A. I oversaw the program, and it was -- in  
20 Montana it was in the division that I managed  
21 which was Audit and Program Compliance Division,  
22 it was a section in that division. In Virginia it  
23 was a section -- it was part of the accounting and  
24 finance section which I administered directly.

25 Q. I see that when you also -- when

1 you were apparently in Montana with the Medicaid  
2 financing bureau --

3 A. Yes.

4 Q. -- you managed Medicaid  
5 reimbursement program and policy development?

6 A. Yes.

7 Q. What do you mean by policy  
8 development?

9 A. When I wrote that I meant that I developed  
10 the regulations that -- in Montana you must  
11 develop regulations and put them -- get them  
12 passed through the administrative process and  
13 that's the way that the state -- that the state  
14 agency can operate. So I developed policies  
15 and -- I developed basically administrative  
16 regulations that would go through the process.  
17 And I also developed policies concerning audit  
18 programs, desk review programs. I -- so it  
19 basically had to do with reimbursement and how you  
20 determined the allowable cost.

21 Q. Let me ask you, back on third-party  
22 liability, in your experience of Medicaid systems,  
23 what's been the percentage compared to maybe if  
24 you had to rate them, fraud, third party recovery,  
25 other areas within Medicaid or issues dealing with

1 Medicaid that affect the overall cost, how do they  
2 rate in terms of -- in terms of impact on the  
3 Medicaid system?

4 MR. HAY: I object to the form of  
5 the question.

6 A. I'm not -- if you could ask the question  
7 again, maybe I could --

8 Q. Okay. You said earlier and you  
9 tell me if I'm correct on this, that it was  
10 important to make third-party recoveries in order  
11 to keep your costs within the Medicaid system  
12 down. Is that right?

13 A. Yes, that's correct.

14 Q. And to make your division or your  
15 Medicaid division run more efficiently. Is that  
16 right?

17 A. The point is to reduce your costs, yes.

18 Q. Would the same be true for fraud?

19 A. Yes.

20 Q. What other areas would fall into  
21 those general type of categories in order to  
22 reduce your costs?

23 A. Rate setting, cost containment measures,  
24 proper adjudication of claims. The entire  
25 operation of the Medicaid program, it's important

1     that it all be run accurately in order to make  
2     sure that you contain your costs and only spend  
3     money as necessary.

4             Q.           Did you try to do that when you  
5     were working within these Medicaid programs?

6     A.       Yes, I did.

7             Q.           Now, if you had to rate the impact  
8     on Medicaid costs within the division and you were  
9     looking at TPL, fraud, provider agreements, how  
10    would you rate them in terms of impact on cost to  
11    a program?

12                         MR. HAY: I object to the form.

13            Q.           And this is based on your  
14    experience, Ms. Godbout.

15    A.       Are you asking me if there's operations in  
16    Medicaid that are more important than others?

17            Q.           No, not necessarily. For instance,  
18    does third-party liability make up 30 percent of  
19    the cost that we're trying to get under control as  
20    compared with maybe only 15 percent of provider  
21    fraud? In terms of that.

22                         MR. HAY: Object to the form.

23    A.       I can't put any percentages on it.

24            Q.           Okay. Let me ask you, this is back  
25    in your experience at Montana, in Montana, working

1 with the Medicaid program there.

2 A. Yes.

3 Q. It says you are the administrator  
4 of the audit program and compliance. Is that  
5 right?

6 A. It was a division of audit and program  
7 compliance, yes.

8 Q. Were you administrator of that?

9 A. Yes.

10 Q. And it says that you managed the  
11 financial and compliance audits. Did you do that?

12 A. Yes, I did.

13 Q. Can you tell me generally about  
14 that, what your duties were?

15 A. My duties were to -- my original duty was  
16 to assure that those audits were carried out in a  
17 manner in compliance with federal regulations.

18 Q. What audits would those have been?

19 A. There were audits of local welfare offices  
20 in terms of, A, that they properly managed the  
21 food stamp program and that they had prope  
22 controls over food stamps because that has a  
23 special significance. Then we also audited local  
24 county welfare offices in terms of the  
25 expenditures they made, and that was solely for

1 the purpose of determining if the state was going  
2 to be responsible for 100 percent of the  
3 expenditures. And the bulk of the audits were for  
4 the purpose of determining if the contracts that  
5 the state -- that that agency had with generally  
6 not-for-profit organizations for the delivery of  
7 human services, if those contracts were being  
8 conducted in -- if the contractor was performing  
9 in compliance with the contract.

10 Q. Okay. Maybe I misunderstood. This  
11 is not in terms of Medicaid, though. Is that  
12 right?

13 A. Those audits were not, no. The audits for  
14 Medicaid were in -- done in the Medicaid finance  
15 division.

16 Q. And when were you with them?

17 A. I was with them before I was in audit and  
18 program compliance.

19 Q. Did you handle any audits within  
20 the Medicaid addition?

21 A. I was responsible for the entire auditing  
22 function for nursing homes.

23 Q. For just nursing homes?

24 A. I was also responsible for receiving the  
25 results of audits that was conducted by the

1 Medicare intermediary for hospitals.

2 Q. This is while you were with  
3 Montana, right?

4 A. Yes. Would you like me to finish?

5 Q. Oh, I'm sorry.

6 A. I was also responsible for the audits at  
7 the end of home health agencies. We were  
8 forced -- well, federal regulations required that  
9 home health agencies be based, reimbursement be  
10 based on cost reports. And when that happened,  
11 then I became responsible for that.

12 Q. So you're generally familiar with  
13 the audit process then, aren't you?

14 A. Yes. Actually the depositions that I gave  
15 were all concerning that.

16 Q. Concerning audits?

17 A. Concerning the results of our audits, our  
18 findings.

19 Q. When did you head up the Medicaid  
20 program?

21 A. I was in charge of Medicaid finance  
22 division -- Medicaid financing bureau which was  
23 institutional reimbursement. There was another  
24 section that was responsible for other parts of  
25 Medicaid and it's -- it's not designed and it's

1 not set up like Mississippi, so. I was  
2 responsible for different parts of Medicaid in  
3 different jobs.

4 Q. I understand. That was when you  
5 were working in Montana, right?

6 A. That's correct.

7 Q. And were these federal audits?

8 A. They were not federal audits.

9 Q. They were state audits?

10 A. We were doing the audits, yes.

11 Q. These were internal audits?

12 A. Yes.

13 Q. Okay. In your work in Montana did  
14 you have to deal with federal audits?

15 A. As a matter of fact, I was the liaison on  
16 federal audits from I think 1984 until I left the  
17 agency, maybe '83.

18 Q. Okay. And then you went to  
19 Virginia, right?

20 A. That's correct.

21 Q. In Virginia you actually did more  
22 with Medicaid in terms of what we know Medicaid in  
23 Mississippi -- strike that.

24 Did you head up a Medicaid -- did  
25 you head up the Medicaid division in Virginia?

1 A. I was the deputy director for finance --  
2 let's see. I was deputy director for  
3 administration, and I did manage programs, certain  
4 aspects of the Medicaid program in -- I was not, I  
5 did not run the entire program in Virginia.

6 Q. Okay. Fair enough.

7 A. But if I said something that indicated to  
8 you that I had less contact with the Medicaid  
9 program in Montana than I did in Virginia, I did  
10 not intend to do that.

11 Q. Okay. So did you deal with, when  
12 you were in Virginia did you deal with both  
13 federal and state audits connected with the  
14 Medicaid program in that state?

15 A. I did that in -- the federal government is  
16 not allowed to audit state Medicaid programs.  
17 They're not allowed to audit. They can only do  
18 reviews.

19 Q. Okay. What's the difference  
20 between a review and an audit?

21 A. They're prevented from doing audits and  
22 they can do reviews. No, truthfully. Congress  
23 passed legislation, because of our complaints at  
24 the state level, that said that there will be a  
25 single audit done every year and that will be

1     done -- the state is responsible for getting that  
2     done and that the federal agencies may not conduct  
3     additional audits. They have a right to review  
4     any areas they choose.

5                     So they essentially, then, my  
6     understanding is that they review, the federal  
7     government reviews the audits that are done by the  
8     state; and then will the federal government make  
9     recommendations based upon those reviews and they  
10    review those audits and conduct other reviews.  
11    Such as SPR reviews.

12            Q.       Will you give her that?

13            A.       I apologize. System performance reviews.  
14     So in Montana and in -- in Montana I was  
15     responsible for dealing with the federal  
16     government when -- liaison issues concerning the  
17     single audit, and I also dealt with many federal  
18     reviewers when they were performing SPR reviews  
19     and other reviews and when they were performing  
20     what they call spectrum audits before they were  
21     prohibited from auditing.

22            Q.       What is the purpose, Ms. Godbout,  
23     of doing an audit?

24            A.       The audit --

25            Q.       As it pertains to the Medicaid

1 division?

2 A. The auditor would do an audit to try to  
3 assure himself that there are adequate internal  
4 controls in place to be able to render an opinion  
5 on the financial statements. And that's one part  
6 of it. The other part of it is because they're  
7 required to have financial and compliance audits,  
8 and compliance audits are not done a lot except in  
9 government and the compliance audit is done to  
10 determine if the agency is operating in compliance  
11 with federal regulations or the grant requirements  
12 or the contract or the state plan, whatever is in  
13 place.

14 Q. Let me ask you this, in your  
15 experience in working with these Medicaid  
16 divisions that you've done over the years, did the  
17 federal government, am I correct, establish  
18 certain guidelines and regulations for the  
19 operation of a Medicaid division in a state? Is  
20 that right?

2 A. The state is required to submit a state  
22 plan, and in that state plan they're required to  
23 do two things basically. I mean, it may be  
24 considered more than two things by other people  
25 but I consider them two things. One, they must

1 affirmatively state that they will follow federal  
2 regulations where there is no option, and if there  
3 is an option on the actual coverage of a service  
4 or eligibility category, then they will indicate  
5 in the plan what options they have selected. And  
6 they will explain how they are implementing those  
7 objectives -- those parts of the state plan.

8 Q. So there's really only then one  
9 thing, the state -- is the state mandated to  
10 follow certain nonoptional federal regulations?

11 A. And they're affirmatively agreed, yes.

12 Q. We agreed to follow these federal  
13 regulations?

14 A. Yes, right.

15 Q. Is that right?

16 A. That's one part of it, yes.

17 Q. Sometimes the federal government  
18 will give them an option as to whether or not they  
19 want to implement a certain reg. Is that right?

20 A. Congress, yes.

21 Q. Okay. Give me an example of an  
22 optional federal regulation and an eligibility  
23 coverage.

24 A. You can opt to cover pregnant women and  
25 children up to 100 percent of the poverty level,

1 103 percent of the poverty level, 185 percent of  
2 the poverty level.

3 Q. Why do they give you certain  
4 regulations that are optional?

5 A. It's been the history of the Medicaid  
6 program since 1965 to mandate a certain core of  
7 services and to allow the state, who best knows  
8 how to treat its citizens and best knows what it  
9 can afford to do for its citizens, to allow it to  
10 build those Medicaid programs around those needs  
11 and around their ability to pay. That was the  
12 idea in 1965. That, of course, in my opinion, did  
13 change as they -- as they took away more and more  
14 options to the point where they're attached, and  
15 there are in my opinion fewer options that states  
16 have than they had in the early years of the  
17 program.

18 Q. Let's go back to that question I  
19 asked you earlier then. The State of Mississippi  
20 is claiming damages from the inception of its  
21 Medicaid program in 1970. In formulating your  
22 opinions in this case did you have a separate  
23 opinion, for instance, for 1973 with regard to  
24 what options were or were not available to a  
25 state?

1 A. No.

2 Q. Why does the federal government  
3 mandate that certain regulations be followed?

4 A. Sir, I was paid a lot of money and spent a  
5 lot of money trying to decide why Congress did  
6 certain things and was not able to explain to  
7 people's satisfaction.

8 Q. What would be a mandatory --

9 A. You must provide pharmacy service -- excuse  
10 me. You must provide physician services; you are  
11 not to provide pharmacy services. You must  
12 provide acute health care services in a hospital.

13 Q. Okay. If you don't -- let's say if  
14 you don't follow the mandatory regulations. What  
15 happens?

16 A. If you -- they won't approve your state  
17 plan.

18 Q. And what happens if they don't  
19 approve your state plan?

20 A. Then you don't participate in the Medicaid  
21 program.

22 Q. Which means that you don't get  
23 federal money. Is that correct?

24 A. The Medicaid program is a federal program  
25 so if you're in the Medicaid program you get

1 federal money and if you -- I mean, they're hand  
2 in hand. I guess you could have your own Medicaid  
3 program, you could choose to call it that, but the  
4 Medicaid program is a federal program that the  
5 states have a choice to participate in.

6 Q. So the federal government is  
7 saying, if I understand your testimony, is that  
8 here are the regulations, mandatory regulations;  
9 comply with these and we'll give you money?

10 A. They will participate in the costs  
11 associated with that coverage, yes.

12 Q. But with regard to these optional  
13 regulations, states, you have discretion in how to  
14 best manage your program. Is that right?

15 A. Yes. Which -- yes.

16 Q. Ms. Godbout, have you looked at the  
17 state plan in this case?

18 A. Yes, I have.

19 Q. For what years?

20 A. I looked at the most recent version, which  
21 of course, if you're familiar with the state plan,  
22 some sections of that state plan may have been in  
23 there since 1970 and other sections of that state  
24 plan may have changed yesterday and I do not have  
25 that. So it's a changing document. I reviewed

1 the most recent document that we have and I also  
2 reviewed the -- you look at the bottom of the  
3 document and you see when it was amended and then  
4 by looking at that, then you can know that you  
5 need to go and find a prior page to see what was  
6 done prior to the date that that amendment was  
7 approved.

8 Q. Have you asked for any of those  
9 pages?

10 A. Yes, I have.

11 Q. Have they been given to you?

12 A. Yes, they have.

13 Q. So you reviewed those in connection  
14 with your case?

15 A. Yes.

16 Q. And those have been provided to us?

17 A. I don't -- I reviewed the state plan  
18 document that was received from Mississippi.

19 Q. Well, Doctor, in formulating your  
20 opinion in this case, for instance, in 1973 did  
21 you inquire what the state plan was in 1973?

22 A. I don't specifically remember looking at  
23 1973. I don't specifically remember looking at  
24 that year. So I can't say whether I did or not.

25 Q. You were generally talking about

1    ~~What~~ an audit does.  Do you recall that?

2    A.       Uh-huh.

3           Q.       Before we got off on this tangent.  
4    Start with that again, please.  Explain to me what  
5    generally an audit -- well, let's take it back.  I  
6    want to know in Medicaid the audits that you --  
7    what are the type of audits that you're familiar  
8    with dealing with Medicaid?

9    A.       The audits that I was responsible for were  
10   audits of providers' cost reports, and we required  
11   them to submit us a report of their costs and we  
12   required that they be submitted in Montana on the  
13   forms that had been developed for Medicaid cost  
14   reporting.  And in addition to that, we had other  
15   forms that we used.  And we required and  
16   incorporated in our administrative regulations the  
17   requirements that they follow, what's called the  
18   HIM 15, the Health Insurance Manual 15, which is  
19   allowing reasonable and necessary costs principles  
20   for Medicare.  And we incorporated those into our  
21   regulations, and in some cases it added to that  
22   and in some cases replaced those with our own  
23   regulations.

24                       So we were auditing the cost report  
25   or conducting a desk review to determine that they

1 had properly allowed those -- they had properly  
2 recorded the costs in accordance with those  
3 regulations.

4 Q. Is there an audit of claims data  
5 done within the Division of Medicaid?

6 A. Well, there's several audits of claims  
7 data.

8 Q. What are they?

9 A. There's what is referred to as CPAS, which  
10 is Claims Payment Assessment System, which states  
11 may or may not have to conduct depending on the  
12 federal determination about their MMIS. And I  
13 have to say that I've been out of Medicaid for  
14 awhile and I'm not positive that CPAS reviews are  
15 still required. That's a state agency. State  
16 agency audits the fiscal agent.

17 Q. Do you know whether Mississippi  
18 implements CPAS?

19 A. They had -- they did CPAS for awhile, yes.

20 Q. Is that another check essentially  
21 on your system?

22 A. Yes. And you're not prohibited -- just  
23 because the federal government says that you don't  
24 have to do CPAS doesn't mean you can't. You can  
25 do whatever you want.

1 Q. The federal government may not  
2 require you to do CPAS but you can do it if you  
3 want to as an additional check?

4 A. They may or may not require you to do that.

5 Q. And do you know whether the federal  
6 government does require --

7 A. They -- I do not -- from what I understand  
8 they are not required to do that in Mississippi at  
9 this time. They were required to do it at other  
10 times.

11 Q. And what do you base that on?

12 A. I base that on the records where they were  
13 doing CPAS reviews, and I don't see records of  
14 them doing CPAS reviews at this time.

15 Q. Have you asked anyone about whether  
16 or not it's required in Mississippi?

17 A. No.

18 Q. Would you think that was important  
19 in forming your opinion about if the federal  
20 government required them to do CPAS in Mississippi  
21 and they weren't doing it? Would that affect your  
22 opinion?

23 A. No.

24 Q. Okay. You talked about the CPAS  
25 audits, that was one way to audit claims data.

1 What are the others?

2 A. There's systems performance reviews that  
3 are conducted by the federal government.

4 Q. These review what audits then?

5 A. The systems performance reviews are reviews  
6 that they are allowed to actually conduct in  
7 addition to the audits.

8 Q. In addition to the reviews of the  
9 audits, correct?

10 A. That's correct. I don't write these  
11 regulations.

12 Q. I understand. And what else?

13 A. Generally I personally have never seen a  
14 state, a single audit done for a state that did  
15 not at least review some claims or in a Medicaid  
16 system to assure that the auditor -- the auditor  
17 obviously has a choice of what they're going to  
18 look at, but in most cases they are looking to  
19 see -- looking at a sample of claims. In  
20 addition -- in some states, in Virginia, for  
21 example, there's an internal auditor and that  
22 internal auditor reviews claims. The legislature  
23 has the clear authority and choice to conduct  
24 special reviews of audits -- of claim systems.  
25 And I've been involved in those.

1 Q. What are special reviews called?

2 A. They're called --

3 Q. Just come in and say they want to  
4 do another subsequent review?

5 A. Right. They might ask your permission.

6 Q. So as far as the claims data is  
7 concerned, your understanding then is that the way  
8 we would audit or look to see any problems  
9 associated with that or lack of problems  
10 associated with that would be to look at CPAS,  
11 systems performance review. What else?

12 A. The audits conducted -- the single audit  
13 which is what I mentioned.

14 Q. Which is conducted by the state?

15 A. By the state or the contractor, its agent.

16 Q. Okay.

17 A. If I were to do it, I mean, if I was in  
18 charge and what I have done before is I've looked  
19 at SURS data. Survey Utilization Review  
20 Subsystem, is a part of the Medicaid management  
21 information system. And we use the acronym SURS  
22 and MMIS, but the SURS system can give you  
23 indications of problems. You can look at MARS  
24 reports. There's all ways to look at. There's  
25 all kinds of information that you can get about

1 claims processing from many sources.

2 Q. Now, these are -- but in terms of  
3 audits or reviews, we're really talking about  
4 CPAS, SPR, single audit?

5 A. We're always talking about SPR and single  
6 audits. We may or may not be talking about CPAS.

7 Q. Fair enough. Fair enough. And in  
8 order to look even, maybe look a little closer or  
9 look from a different angle, if that's fair, you  
10 would look at maybe SURS reports and MARS  
11 reports. Is that right?

12 A. Right.

13 Q. What does the federal government  
14 require you to do?

15 A. They require you to do whatever it takes to  
16 manage the program efficiently and effectively.

17 Q. Do they require you to do a single  
18 audit?

19 A. Yes, they do.

20 Q. And you testified earlier that at  
21 times they required CPAS; at other times they did  
22 not?

23 A. That's correct.

24 Q. But as we sit here today you don't  
25 know whether or not they're required?

1 A. No, I do not.

2 Q. And did they require you to do an  
3 SPR?

4 A. They do the SPR. The SPR is actually  
5 conducted by federal staff.

6 Q. Do they require you to do SURS or  
7 have a SURS in place?

8 A. Yes, they do.

9 Q. Do they require you to do MARS?

10 A. Excuse me. I take this back. If you want  
11 to have 75 percent reimbursement for the operation  
12 of your claims processing system, then that claims  
13 processing system must be certified, and in order  
14 to have a certified system it must have a SURS  
15 component.

16 Q. Okay. Do you know if Mississippi  
17 does?

18 A. Yes, it does.

19 Q. And MARS, does the government  
20 require you to do MARS reports?

21 A. It requires -- the MARS is a subsystem and  
22 you're required to have a MARS subsystem and it is  
23 required to produce certain kinds of reports.

24 Q. Okay. And these all look at claims  
25 data and expenditure data. Is that right?

1 A. Yes.

2 Q. Claims expenditure data. Let me  
3 say it that way.

4 A. Yes.

5 Q. Out of that list, is Mississippi,  
6 to your knowledge, not doing any of those reports,  
7 audits or systems reviews that you just  
8 identified?

9 A. I have not seen the '96 audit of  
10 Mississippi.

11 Q. Do you know if it's been prepared  
12 yet?

13 A. No, I do not.

14 Q. Have you asked?

15 A. I've asked for the report and I have not  
16 been given the report. I've asked the attorneys  
17 here for the --

18 Q. Other than 1996.

19 A. So for -- that's -- I can't recall if I've  
20 seen the '95 audit or not.

21 Q. Other than the '95 single audit --

22 A. Single audit, right.

23 Q. -- and the '96 single audit for the  
24 Division of Medicaid, can you identify any other  
25 report, systems review, any of these that you've

1 identified right here, CPAS, SPR, SURS or MARS,  
2 that the State of Mississippi is not engaged in or  
3 using?

4 A. No.

5 Q. So they are doing what the federal  
6 government at least requires them to do in terms  
7 of having these programs in place. Is that  
8 correct?

9 A. They have the systems in place.

10 Q. You were deputy commissioner for  
11 administration and finance in the Virginia  
12 Department of Social Services. Is that right?

13 A. Deputy commission of finance, yes, I was.

14 Q. How long were you there?

15 A. Two years.

16 Q. Two years. And your duties were  
17 generally?

18 A. I managed accounting, federal reporting,  
19 budgeting, information management. I had  
20 recipient fraud, policy and research.

21 Q. Where did you go to work after  
22 that?

23 A. The department of planning and budget,  
24 which is in -- the Virginia department of planning  
25 and budget.

1 Q. And that would have been for what  
2 years?

3 A. '90 and '91. Part of '91.

4 Q. Okay. You said you worked with the  
5 single audit before. Is that right?

6 A. Yes.

7 Q. Once someone does an audit, what  
8 generally happens after the audit, the single  
9 audit is conducted?

10 A. Well, the way that I have always seen it  
11 done, and this applies to every audit, when you  
12 complete your initial work, you meet with the  
13 auditee to discuss your findings.

14 Q. Findings meaning good, bad or  
15 indifferent?

16 A. Yeah.

17 Q. Good or bad?

18 A. Well, usually bad. Audits usually deal  
19 with bad. I don't think I've ever seen an audit  
20 in my life or ever written an audit that said  
21 these people do a great job. That's not the  
22 purpose. I've not seen that in an audit. And the  
23 purpose of that is to share your findings and to  
24 determine if there are additional things that you  
25 need to look at because you've reached the wrong

1 conclusion and you haven't received all of the  
2 information. The purpose of that being not to  
3 publish an official report that has inaccurate  
4 information. So that's why you have those  
5 meetings. But once that meeting is over, then the  
6 report is prepared.

7 Q. In other words, you get a chance to  
8 respond. They say this is what we found, what's  
9 going on?

10 A. It's unofficial though. It's not an  
11 official document yet. It's called an exit  
12 conference and it's between the auditor and the  
13 auditee and, you know --

14 Q. You get to say your piece?

15 A. Right, because the auditor doesn't want to  
16 publish a report that's wrong any more than you  
17 want it published wrong.

18 Q. So does the single audit become  
19 final then?

20 A. Yes. And in a single audit I, you know,  
21 there's a process within -- it would depend  
22 whether it was contracted or whether it was done  
23 in the legislative group, but it goes through  
24 different review processes and then it's  
25 finalized.

1 Q. Assuming you sit down with the  
2 auditor, you being the auditee, and you discuss  
3 these findings, then what do you do?

4 A. Then you wait for the report to come out;  
5 and once the report is out, you're usually told to  
6 respond to the findings.

7 Q. Do you respond to the findings?

8 A. You're usually required to respond to those  
9 in writing.

10 Q. Okay. That's usually, if I  
11 understand it correctly, that's usually attached  
12 to the audit, the response is. Is that right?

13 A. Yes, it is. And it's a very important part  
14 of the document.

15 Q. In fact, that's done in  
16 Mississippi, too, isn't it?

17 A. Yes, it is.

18 Q. What happens after that?

19 A. The single audit is -- because it's a  
20 single audit, it is sent to the federal government  
21 and then the federal agency that receives it sends  
22 it to the other federal agencies that also deal  
23 with the state. And that's determined by the  
24 grants, that every federal grant has a number and  
25 from that number you can determine what federal

1 agency is involved, and it's sent to those and  
2 they will usually -- the federal agency that is  
3 involved will usually send you a letter asking you  
4 to submit some kind of corrective action plan or  
5 submit money or whatever. Depends on what the  
6 findings are.

7 Q. You always take the corrective  
8 action that the federal government is asking you  
9 to take?

10 A. No.

11 Q. Why not?

12 A. Sometimes you disagree that you need to  
13 take that corrective action.

14 Q. There can be a disagreement between  
15 a state Division of Medicaid and the federal  
16 government about corrective action?

17 A. Yes. Not that corrective action is  
18 necessary, but the type of corrective action that  
19 they're suggesting as opposed to a different type  
20 of corrective action.

21 Q. Oh, I see.

22 A. I never told them that I wouldn't do  
23 anything.

24 Q. But you may not have done what the  
25 federal government asked you to do?

1 A. What they were recommending, what they were  
2 recommending that I do.

3 Q. Can they withhold your money, the  
4 participation in federal funds, if you don't take  
5 a corrective action?

6 A. They could.

7 Q. Does that not worry you as a  
8 Medicaid director or person working within  
9 Medicaid that your federal funds would be  
10 withheld?

11 A. Well, you have a right to appeal any  
12 decision they make to the Department of Health and  
13 Human Services, and if you don't like what  
14 decisions are administratively, you have a right  
15 to go to the DAB and to their administrative body  
16 and appeal there.

17 Q. Did you ever go that far?

18 A. The State of Montana did do that, and I  
19 helped prepare materials to argue those  
20 decisions.

21 Q. The findings, would there be a  
22 finding of the SPR?

23 A. There's an SPR report. Excuse me. I'm  
24 sorry.

25 Q. That's all right. I didn't want to

A. WILLIAM ROBERTS, JR. & ASSOCIATES

1 cut you off.

2 A. I cut you off.

3 Q. Would there be a finding of the  
4 SPR?

5 A. Once the SPR is completed, review is  
6 sent -- a report on the review is sent to the  
7 state.

8 Q. Okay. Does it have recommendations  
9 for corrective action?

10 A. Yes, it does.

11 Q. Is that suggested or is it  
12 required, corrective action?

13 A. You're required to submit -- you're  
14 required to -- well, I guess -- they ask you for a  
15 response. I guess you could ignore them. I  
16 wouldn't recommend that someone do that.

17 Q. Have you always followed their  
18 corrective -- the actions that were recommended be  
19 taken in an SPR report?

20 A. I've always responded and provided a  
21 corrective action plan. I don't know that I've  
22 always adopted the one that they recommended.

23 Q. So you may not necessarily agree  
24 with the corrective action plan that was adopted  
25 in the SPR?

1 A. If they recommend that we add additional  
2 staff and we're not going to get any additional  
3 staff, I'm not going to say that I'm going to get  
4 additional staff when I can't do it.

5 Q. So within a state's Division of  
6 Medicaid, there are issues that are unique to that  
7 program. Is that right?

8 A. The Medicaid program is substantially  
9 different from other programs. Is that what  
10 you're...

11 Q. One Medicaid program may be  
12 substantially different than another state's  
13 Medicaid program. Is that right?

14 A. Yes.

15 Q. Have you ever worked in the  
16 Mississippi Medicaid program?

17 A. No, I haven't.

18 Q. CPAS, that's another report, is it  
19 not?

20 A. CPAS is a subsystem.

21 Q. Okay.

22 A. Claims processing assessment system.

23 Q. Okay.

24 A. And you can -- it will produce reports.

25 Q. When it's required by the federal

1 government, you have to issue reports to the feds  
2 from the CPAS?

3 A. Yes.

4 Q. And you said that's another check  
5 on your system. Is that right?

6 A. And I take it back. CPAS does not issue  
7 reports. CPAS will pick up a list of claims, it  
8 will list out claims. It's randomly selected.  
9 And that's what the CPAS --

10 Q. What does that mean?

11 A. It gives you a list of claims and then  
12 you're required -- when you have mandatory CPAS,  
13 we all had mandatory CPAS in the early years of  
14 the program, and under mandatory CPAS you were  
15 required to review those claims.

16 Q. Do you know if Mississippi did?

17 A. Mississippi, if Mississippi had mandatory  
18 CPAS in the early years of the program, everyone  
19 had mandatory CPAS in the early years of the  
20 program.

21 Q. I said, do you know if Mississippi  
22 did those reports?

23 A. I know that Mississippi did CPAS.

24 Q. Do you know if they reviewed the  
25 claims?

1 A. Yes, I do. No, they did not.

2 Q. Are the CPAS reports submitted to  
3 the federal government?

4 A. The results of the CPAS reviews, yes.

5 Q. So CPAS reviews are submitted to  
6 the federal government?

7 A. Right.

8 Q. Do the feds then make a  
9 recommendation for corrective action based upon  
10 that review?

11 A. I have to say that I don't remember if you  
12 submit the corrective action with the CPAS when  
13 you submit the report or that you submit it  
14 later. I can't remember. It's either submitted  
15 at the time you send in --

16 Q. Were the feds telling you what  
17 corrective action needs to be taken with regard to  
18 the CPAS?

19 A. You're determining that yourself.

20 Q. Do you know if Mississippi  
21 determined that?

22 A. What corrective action they should take?  
23 Corrective action is -- and I saw Mississippi.  
24 Corrective action is usually telling the fiscal  
25 agent that they're not operating in accordance

1 with the Medicaid program regulations and to fix  
2 it. That's the whole purpose of CPAS.

3 Q. Okay. SURS reports, are those  
4 findings, is that a report that will have findings  
5 on it?

6 A. Again, the SURS system produces lists of  
7 claims. The SURS, the original SURS reports that  
8 are produced by the system are providers. It  
9 identifies providers and various pieces of  
10 information about that provider, including the  
11 payments made to the provider over an 18-month  
12 period.

13 Q. So it's another form of review?

14 A. It's --

15 Q. I guess what I'm getting at,  
16 Ms. Godbout, is there corrective action  
17 recommended based on any reports SURS generates?

18 A. Not for the federal government, no.

19 Q. For the state?

20 A. It's not really for that purpose.

21 Q. What's its purpose then? You told  
22 me it would help you check out whether your claims  
23 expenditure data --

24 A. I said I would use it for that purpose.

25 The federal government expects you to use that for

1 the purpose of determining if you are being billed  
2 for services that are not medically necessary, to  
3 identify fraudulent billers, to identify abusive  
4 billers, to identify abusive recipients. That's  
5 the -- the survey utilization, review. So it is  
6 giving you reports on utilization and you are  
7 expected to act on what you find in those  
8 reports. And there are requirements about what to  
9 do.

10 Q. And you said Mississippi had SURS,  
11 right?

12 A. It has the SURS system. It had SURS 2 in  
13 the system that was operated by -- it had Advanced  
14 SURS in the Blue Cross system and it had SURS 2 in  
15 the system, has SURS 2 in the system that was  
16 implemented by First Health Corporation.

17 Q. What's Advanced SURS?

18 A. It's a little bit confusing, but SURS 2 is  
19 a better SURS system than Advanced SURS.

20 Q. Advanced may have been better than  
21 SURS and then SURS 2 came along?

22 A. Yes. And the whole thing was being able to  
23 manipulate the parameters in the system so that  
24 you could look to certain problems. The original  
25 SURS would just -- you couldn't manipulate it at

1 all. The minimum requirements required that the  
2 system identify the outliers at the 95th  
3 percentile and you couldn't really do anything  
4 with that. The Advanced SURS allowed you to have  
5 more and SURS 2 allows you to do more.

6 Q. What about MARS, any reports  
7 generated?

8 A. That's the only thing MARS does is allow  
9 you to --

10 Q. Do they allow someone to make  
11 recommendations for corrective action based upon  
12 those reports?

13 A. There are -- yes, you could -- the state is  
14 required to have certain MARS reports and they can  
15 have any other MARS reports it wants and it could  
16 have some MARS reports that are issued for the  
17 purpose of determining whether there's corrective  
18 action needed.

19 Q. Have you looked at the MARS reports  
20 for Mississippi?

21 A. I looked at -- I've reviewed MARS reports.

22 Q. Have they ever used it to take  
23 corrective action?

24 A. I have not identified a case where they  
25 used it to take corrective action, the MARS

1 reports themselves.

2 Q. Have you asked anybody in the  
3 Division of Medicaid?

4 A. No.

5 Q. You called them once, didn't you?  
6 You called the Division of Medicaid once, didn't  
7 you?

8 A. Uh-huh.

9 Q. Did you call them any other time to  
10 ask them whether they used MARS to take any  
11 corrective action?

12 A. No, I never called them after the first  
13 time.

14 Q. Ms. Godbout, if I wanted to say or  
15 ask you how, what forms would I look at to tell me  
16 the expenditures by the Mississippi Medicaid  
17 program, what forms would immediately come to mind  
18 to you?

19 A. Well, it depends on what level you want to  
20 look at those expenditures.

21 Q. Okay. Fair enough. Let's look at  
22 the expenditures reported to the federal  
23 government.

24 A. There are a number of documents that  
25 concern expenditures that are required to be

1 submitted to the federal government.

2 Q. Okay. Tell me those.

3 A. You're responsible to submit a number of  
4 reports, expenditure reports concerning waivers  
5 that you've been granted. Do I need to explain  
6 what waivers are?

7 Q. No.

8 A. Every waiver is going to require a report  
9 to be submitted. So you're required to present  
10 those. You're required to quarterly provide what  
11 is called the HCFA 2082. You're required to  
12 submit the HCFA 64.

13 Q. What's the 2082 tell you,  
14 Ms. Godbout?

15 A. It gives expenditures -- it only deals with  
16 benefit expenditures. It doesn't deal with  
17 administrative expenditures and it --

18 Q. Do you know whether administrative  
19 expenditures are at issue in this particular case?

20 A. It was my assumption that just benefits  
21 were. But I don't know that. I do not know.

22 Q. Okay. Let's get back on the 2082.  
23 You said that deals with benefit expenditures.

24 A. Right.

25 Q. What information can I expect to

1 find on a 2082 in terms of benefit expenditures?

2 A. You can expect to find the benefit  
3 expenditures. You can expect to find the  
4 expenditures by category of eligibility, by  
5 category of service delivered; and in those  
6 categories you can expect to see those broke down  
7 by certain age groups. And I think it breaks it  
8 down by gender.

9 Q. Have you ever helped prepare a HCFA  
10 2082?

11 A. Yes, I have.

12 Q. You have?

13 A. Yes.

14 Q. When did you do that?

15 A. I did it when I was in Montana, and in  
16 Virginia I didn't do much to prepare --  
17 preparation work myself but I was required to sign  
18 that document, and I didn't sign it unless I  
19 looked at all the documentation to support that it  
20 was accurate because I was the one that was  
21 certifying for the state that it was accurate.

22 Q. So you stand behind the HCFA 2082s  
23 that you certified in Montana. Is that right?

24 A. As I knew that data to be on that day, yes.

25 Q. That's interesting. Where did you

1 get the data that went into the 2082?

2 A. That data generally comes out of the MMIS.

3 In fact, in many states the MMIS is used to

4 produce the 2082.

5 Q. Any other information on the 2082?

6 A. It has information about eligibles, about

7 the number of eligibles, about the number of

8 recipients. It has some information about days of

9 care in the hospital, number of hospital --

10 physician visits.

11 Q. Have you looked at the 2082s for

12 the State of Mississippi?

13 A. Yes, I looked at one 2082.

14 Q. You looked at one 2082?

15 A. Yes.

16 Q. Can you tell me for what year that

17 was?

18 MR. YOUNG: For the record, we  
19 would like the 2082 if it's not been produced. It  
20 may be. I thought she was going to say the whole  
21 stack of them, and I don't remember seeing the  
22 whole stack of 2082s.

23 Q. Can you tell me, do you recall what  
24 fiscal year?

25 MS. NATHAN: Page one at the

1 bottom.

2 A. HCFA 2082s are done by the staff.

3 Q. Right. And that would be the only  
4 HCFA 2082 that you reviewed in connection with  
5 your testimony for this case. Is that correct?

6 A. That's what I recall, yes.

7 Q. And that was one quarter of one  
8 fiscal year. Is that correct?

9 A. Yes.

10 Q. Did you ask for the other 2082s?

11 A. No.

12 Q. Did you compare that 2082 with the  
13 claims, actual claims data?

14 A. No, I did not.

15 Q. When you signed off on the 2082s in  
16 the State of Montana --

17 A. Virginia.

18 Q. Virginia. You told me Montana  
19 earlier, and if we need to correct that --

20 A. I prepared the reports in Montana. I  
21 prepared the reports in Montana is what I said.

22 Q. Okay. And you signed off on them  
23 in the State of Virginia?

24 A. That's correct.

25 Q. When you signed off on those 2082s

1 in the State of Virginia, other than the MMIS data  
2 that went in to compile those reports, what other  
3 data did you look at?

4 A. What data did I look at?

5 Q. Tell me, first of all, was there  
6 anything else, any other data used to generate the  
7 2082 besides the MMIS data?

8 A. Well, there's data from cost avoidance.

9 Q. What's cost avoidance?

10 A. To tell you the truth, the 2082 and the  
11 HCFA 64 run together in my mind at times because  
12 they're both federal reports and they're done both  
13 quarterly and I would usually review them at the  
14 same time so they're, I apologize if I say there's  
15 a piece of information on the 2082 that is  
16 actually on the --

17 Q. Let's go with the best of your  
18 knowledge.

19 A. Okay.

20 Q. As we sit here today, after all,  
21 what we're concerned about and what's really at  
22 issue is the expenditure data for the State of  
23 Mississippi. Isn't that right?

24 A. That's correct.

25 Q. So as we sit here today, Doctor,

1 82 -- Ms. Godbout. I'm sorry, I've been taking  
2 too many doctors depositions. As we sit here  
3 today, you've seen one quarterly 2082 report. Is  
4 that correct?

5 A. Yes.

6 Q. Okay. I want to know, to the best  
7 of your knowledge what other data -- you've  
8 testified earlier that the MMIS data goes into  
9 compiling the 2082?

10 A. Yes.

11 Q. What other data goes in to compile  
12 the 2082 in addition to the MMIS information?

13 A. Data about payments that are made outside  
14 the system. There could be health care payments  
15 made outside of the MMIS. There can be  
16 information about recoveries made outside of  
17 the -- recoveries of payments that were made and  
18 then subsequently funds were received back.

19 Q. Like overpayments?

20 A. Overpayments.

21 Q. Oh, okay, okay. And that would  
22 appear on the 2082. You're thinking that it  
23 would?

24 A. I'm thinking it is, and if I'm wrong about  
25 that, it's on the HCFA 64.

1 Q. So where would overpayments have  
2 first been reported?

3 A. Overpayments are always reported on the  
4 HCFA 64.

5 Q. But where do you get the  
6 overpayment numbers?

7 A. You get them -- where do you get the --

8 Q. To put on the HCFA 64 or put on the  
9 2082.

10 A. You would get them out of your accounting  
11 system.

12 Q. Your accounting system?

13 A. The state accounting system. The agency  
14 usually has an accounting system.

15 Q. Would that be reflected in the  
16 audit?

17 A. Yes.

18 Q. Do they generally back out those  
19 expenditures out of --

20 A. On the HCFA 64 you're required to back  
21 out -- you're supposed to net your expenditures by  
22 recoveries and receipts. But the HCFA 64 --

23 Q. Hang on a second. I'm sorry, I'm  
24 not finished with the 2082 yet.

25 A. Okay.

1 Q. To the best of your knowledge,  
2 other than the MMIS data and the -- now I can't  
3 remember what the second item you told me was that  
4 you think is present on the 2082. Cost  
5 avoidance. What makes up cost avoidance?

6 A. Cost avoidance is definitely in there and  
7 it's part of -- it comes out of the MMIS. And  
8 cost avoidance is the amount of money that you do  
9 not expend because a third party has paid the  
10 claim rather than the Medicaid agency, and you  
11 must report that.

12 Q. So essentially it backs out  
13 third-party recoveries. Is that right?

14 A. It backs out -- not recoveries. It backs  
15 out the amount that would have been paid -- it  
16 just -- it doesn't back it out. It states the  
17 amount that would have been paid if third  
18 parties -- if the third party cost avoidance had  
19 not occurred as compared to Medicaid recovery --  
20 TPL recoveries, third-party liability.

21 Q. Okay. What else is on the 2082?  
22 Keep in mind when I'm asking you this, I asked you  
23 what data goes in to compiling the 2082. I want  
24 to make sure we're correct. Other than the MMIS  
25 data, what other data is used to compile the 2082?

1 A. If you make payments outside of your  
2 system, you must -- you must -- let's see. I  
3 would say the majority of the data that's on the  
4 2082 is coming out of the MMIS.

5 Q. Ms. Godbout, are you an expert on  
6 2082s?

7 A. I haven't filled out a 2082 for two years.

8 Q. Do you consider yourself an expert  
9 on 2082s?

10 A. Yes.

11 Q. So to the best of your knowledge  
12 the only data that goes in to generating a 2082 is  
13 the MMIS?

14 A. And information, if you make payments  
15 outside of the MMIS, health care payments, health  
16 care benefit payments outside of the MMIS.

17 Q. Explain how that would happen.

18 A. Oh, let's see. Well, for example, you  
19 could have an agreement with the bus company that  
20 you're going to buy so many bus tickets and those  
21 bus tickets are going to be handed out by the  
22 local health department. So you're sending a  
23 check to the bus company and the bus company is  
24 giving the tickets out and those are not claims  
25 that are processed in the system. That's an

1 example.

2 Q. Do you know whether Mississippi has  
3 such expenditures outside of the --

4 A. I can't recall.

5 Q. Have you asked?

6 A. I have not asked.

7 Q. Have you made inquiry of any  
8 documentation or any individual?

9 A. No.

10 Q. Would that not be important in  
11 determining whether or not expenditures were  
12 appropriate for the State of Mississippi, knowing  
13 if they made expenditures in that category or not?  
14 A. I looked at the 2082 to determine what kind  
15 of expenditures they were making. I didn't  
16 necessarily need to ask anyone.

17 Q. You can draw all your conclusions,  
18 Ms. Godbout, from reviewing one 2082 for one  
19 quarter?

20 A. I do not draw all of my conclusions from  
21 reading one 2082 from one quarter.

22 Q. But you just told me you could tell  
23 me what expenditures they were making by looking  
24 at that one 2082?

25 A. I did not.

1 Q. Isn't that what you said?

2 A. No.

3 Q. Then tell me you meant.

4 A. I drew my conclusions from reading numerous  
5 documents that were -- that came from the records  
6 of the State of Mississippi and from the federal  
7 government concerning the operation of the  
8 Medicaid program. And they did not include only  
9 the 2082.

10 Q. Let's move on to the HCFA 64. Have  
11 you ever signed off on one of those?

12 A. Yes, I have.

13 Q. When did you do that?

14 A. When I was in Virginia.

15 Q. What information is contained on  
16 the HCFA 64?

17 A. There's expenditure data from MMIS,  
18 expenditure data from the department's accounting  
19 records. There's information concerning  
20 recoveries and reimbursements and anything that  
21 would -- that would be -- go to reduce the costs  
22 that were -- the original expenditures. So they  
23 don't want -- you're not asked to report your net  
24 expenditures. You're asked to report your gross  
25 expenditures and net from that.

1 Q. What data goes in?

2 A. The data from the MMIS and the data from  
3 the state's accounting system.

4 Q. Let me ask you something,  
5 Ms. Godbout, if you -- if Helen Weatherbee signed  
6 off on 2082s and HCFA 64s based upon the data that  
7 was available to her on the MMIS as she knew it  
8 and operated with it on a day-to-day basis, would  
9 you have any basis for challenging her signature  
10 on those forms?

11 MR. HAY: Object to the form.

12 A. I know that there were costs that were  
13 reported on that that were not related to the  
14 costs as approved in the state plan because I've  
15 seen documents from Helen Weatherbee herself who  
16 stated that.

17 Q. Ms. Godbout, that's not my  
18 question.

19 A. Okay.

20 Q. My question to you, ma'am, is  
21 whether or not you had any basis to challenge  
22 Helen Weatherbee signing off on those 2082s and  
23 HCFA 64s, the expenditure data reported on the  
24 2082 and the HCFA 64s. Do you have any basis for  
25 challenging her certification of those forms and

1 the expenditures put on those forms?

2 MR. HAY: Object to the form of the  
3 question.

4 A. It's my personal opinion that the numbers  
5 were incorrect.

6 Q. Is it your expert opinion or  
7 personal?

8 A. Expert opinion based on the research I did  
9 of the reports.

10 Q. Let me ask you this, ma'am. How do  
11 you come to that giant leap when you've not looked  
12 at any 2082s or HCFA 64s other than one quarterly  
13 report?

14 A. Because I reviewed records about the  
15 inaccuracies of the system and the problems with  
16 the MMIS.

17 Q. Why did you leave the I believe it  
18 was the administration and finance department of  
19 social services in Virginia?

20 A. I didn't want to work for the  
21 commissioner.

22 Q. Did you resign?

23 A. Yes, I did.

24 Q. Did you give a reason for your  
25 resignation?

1 A. That I didn't want to work with the  
2 commissioner.

3 Q. Was there a reason why?

4 A. Because I didn't believe he ran the program  
5 properly.

6 Q. Is it your expert opinion that  
7 Helen Weatherbee is lying when she certified as to  
8 the correctness of those HCFA 64s or 2082 reports  
9 for the State of Mississippi?

10 MR. HAY: Object to the form.

11 A. I don't know if she was lying.

12 Q. Is she wrong --

13 A. The reports are wrong.

14 Q. Are your reports in Virginia that  
15 you certified wrong?

16 A. They may have been. But I did not know  
17 they were wrong at the time I signed it.

18 Q. What other information is contained  
19 on the HCFA 64?

20 A. I'm sorry, I'm confused about what I gave  
21 you already. So I gave you the MMIS data and I  
22 gave you the state accounting data and so -- and  
23 those are expenditure data. And from the state  
24 accounting records you would also get information  
25 about income -- revenue received for overpayments

1 for third-party collections, for -- let's see.  
2 Canceled -- and you would also indicate how much  
3 there was from canceled checks because you have  
4 the MMIS data that's sitting there that there's a  
5 certain amount of expenditures were made and after  
6 that there was the actual expenditures that were  
7 made until you're going through the report and  
8 showing how you started with this number and  
9 coming up with another number. So the data, the  
10 data is coming from the accounting records and  
11 from the MMIS.

12 Q. Have you seen the accounting  
13 records for the State of Mississippi's Medicaid  
14 division?

15 A. No.

16 Q. And we've already thoroughly  
17 discussed whether or not you've looked at the  
18 actual MMIS claims data, haven't we, Ms. Godbout?

19 A. Yes.

20 Q. And your answer is no on that.  
21 Isn't that correct?

22 A. My answer is no.

23 Q. The expenditure data on the 2082s  
24 that Helen Weatherbee has signed off on in  
25 previous years other than the quarter that you

1 looked at -- well, I'm sorry. Strike that.

2 Let's look at the 2082 that you did  
3 review for that quarter. How would one go back  
4 and determine whether or not those expenditures  
5 were correct or not?

6 A. You could look to see if -- if you have the  
7 opportunity, which of course I did, to look after  
8 the fact, you would look through audit reports and  
9 to SPR reports and to internal documents to  
10 determine if in fact it was discovered that claims  
11 that were in -- that were paid by the system were  
12 inaccurately paid. So you would gather that  
13 information.

14 Q. Oh, I see. So did you go back and  
15 determine then for that quarter what the correct  
16 expenditures were?

17 A. No, I did not.

18 Q. Are you not able to do that?

19 A. No, I'm not able to do that.

20 Q. You're just able to say that it's  
21 wrong; you don't know what the correct figure is.  
22 Is that correct?

23 A. Yes.

24 Q. How would one determine -- if those  
25 figures aren't correct, how would one determine

1     what the correct figures are?

2     A.       If you had all of the data and all of the  
3     data was accurate and -- you could -- and you knew  
4     which claims should not have been paid or paid at  
5     a different rate and you had your system so that  
6     it was properly paying, you could reprocess the  
7     claims and determine the amount that would have  
8     been paid if the system was functioning fully and  
9     had you had the correct data.

10            Q.       Well, Ms. Godbout, have you ever  
11     worked in a fully functioning system as you  
12     describe it? Please tell me where this Division  
13     of Medicaid is located.

14     A.       I don't know.

15            Q.       Are you saying that the State of  
16     Mississippi made no expenditures?

17     A.       No, I'm not.

18            Q.       Does the federal government rely on  
19     those 2082's in determining whether it should  
20     appropriate state funds to the State of  
21     Mississippi?

22     A.       64 is more important to the federal  
23     government than how much money they're actually --

24            Q.       Well, why do they want the 2082  
25     then?

1 A. It provides information about the types of  
2 expenditures that are made.

3 Q. Do they come back in and reconcile  
4 the 2082s or the HCFA 64s?

5 A. They reconcile the 64s.

6 Q. And what's that report called?

7 A. I don't know that it has a name.

8 Q. Well, have they reconciled them for  
9 Mississippi?

10 A. I have not seen the report from the  
11 regional office of -- I've never seen a written  
12 report on a reconciliation. I have been present  
13 where someone came in from the regional office of  
14 HCFA to verify the report that we had given them.

15 Q. Really. Who is that who is in  
16 charge of doing that?

17 A. There's an individual in the regional  
18 office.

19 Q. Regional office of what?

20 A. The regional office of health care  
21 financing administration.

22 Q. Do you know if they've come to the  
23 State of Mississippi?

24 A. I don't know.

25 Q. Do you know if they've gone over

1 the HCFA 64s and the accuracy of HCFA 64s with any  
2 individual in the Division of Medicaid in the  
3 State of Mississippi?

4 A. I don't know.

5 Q. Have you asked?

6 A. No.

7 Q. Would you think that might be  
8 important when you're forming your opinions in  
9 this particular case, Ms. Godbout?

10 A. No.

11 Q. You're just able to say that  
12 everybody's wrong without doing an investigation  
13 or talking to any individuals at the division of  
14 Medicaid. Is that how we're going to do this?

15 MR. HAY: Object to the form of the  
16 question.

17 A. I don't recall testifying that everyone was  
18 wrong.

19 Q. You said Helen Weatherbee's reports  
20 which she certified to --

21 A. I said the reports were wrong, that the  
22 reports did not accurately reflect their  
23 expenditures. And I said I did not know whether  
24 she knew that at the time that she signed the  
25 report.

1 Q. So, so she just went off half  
2 cocked and signed the reports. Is that what  
3 you're telling us?

4 A. I do not know whether she knew that they  
5 were wrong when she signed them or not. So if I  
6 don't know that, I have no reason to know why she  
7 would do it.

8 Q. She would be in a better position  
9 when she signed the report as to the accuracy of  
10 expenditures. Is that what you're telling us?

11 MR. HAY: Objection to the form.

12 Q. Your answer?

13 A. Yes.

14 Q. And you're not saying -- your  
15 testimony is not that the state did not make these  
16 expenditures -- strike that.

17 You're not saying the state did not  
18 make the expenditures, any of the expenditures  
19 listed on the HCFA 2082 or HCFA 64.

20 MR. HAY: Object to the form.

21 A. I don't know.

22 Q. Do you know whether the State of  
23 Mississippi has made expenditures in its Medicaid  
24 program?

25 A. Yes, I do.

1 Q. Do you know if those expenditures  
2 or some type of expenditures are reported on the  
3 2082s or HCFA 64s?

4 A. Yes.

5 Q. Have you looked at any HCFA 64  
6 reports?

7 A. No.

8 MR. YOUNG: Let's take a break.

9 (A luncheon recess is taken.)

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## 1 AFTERNOON SESSION

2 Q. You said you left, and you'll have  
3 to refresh my memory on this, you resigned in your  
4 post and went to work for some other division in  
5 Virginia in 1989?

6 A. The Department of Planning and Budget.

7 Q. Okay. That's the position you  
8 resigned from. Is that correct?

9 A. I resigned as commissioner of -- deputy  
10 commissioner of finance and administration with  
11 the Virginia Department of Social Services and I  
12 went to the Virginia Department of Planning and  
13 Budget.

14 Q. I think your testimony was that you  
15 left because you didn't like the director?

16 A. I didn't like dealing with the  
17 commissioner.

18 Q. Who was the commissioner?

19 A. Larry Jackson.

20 Q. Larry Jackson. I hand you what was  
21 marked earlier as Exhibit 2 to the deposition.  
22 Can I get you to look over that real quick, if you  
23 can. Do you recognize Exhibit 2 as your  
24 disclosure statement in this case?

25 A. Yes, I do.

1 Q. Does it contain all the areas of  
2 your anticipated testimony?

3 A. Yes, it does.

4 Q. There's nothing you left out?

5 A. Not at this time, no.

6 Q. Do you expect to change it?

7 A. I have no plan to change it at this time.

8 Q. Did you prepare this?

9 A. No, I did not.

10 Q. Who prepared this? When I say  
11 this, Exhibit 2.

12 A. I assume Mr. Hay prepared it in discussion  
13 with me.

14 Q. Okay. Did you receive a draft of  
15 your disclosure statement?

16 A. I don't recall receiving a draft. No, I  
17 didn't receive a draft. We talked about it on the  
18 telephone.

19 Q. Did you see it before it was  
20 submitted?

21 A. No.

22 Q. But you have since reviewed it?

23 A. Yes.

24 Q. And you agree with all the  
25 statements that are in there?

1 A. Yes, I do.

2 Q. Okay. The historical summary, your  
3 statement here that you're going to testify about  
4 the historical summary of the development of the  
5 Mississippi Medicaid program. Is that correct?

6 A. Yes.

7 Q. Okay. What are you going to base  
8 the -- your historical summary on the Mississippi  
9 Medicaid program on?

10 A. On the documents that I reviewed.

11 Q. Which documents would that be? Are  
12 all the documents related to the historical  
13 development?

14 A. Yes.

15 Q. Okay. Do any of the documents that  
16 you've reviewed allow you to determine what the  
17 federal regulations were on the Medicaid program  
18 in, for instance, 1975?

19 A. The state plan does in fact allow me to  
20 learn what the policies were.

21 Q. Do the documents you've reviewed  
22 thus far allow you to determine what kind of  
23 computer systems were in place at the Division of  
24 Medicaid in Mississippi in 1975?

25 A. No.

1 Q. Do they allow you -- have you  
2 looked at all the audits for 1975 dealing with the  
3 Division of Medicaid?

4 A. I as told there weren't any audits for  
5 1975.

6 Q. Who told you that?

7 A. I was told that I received all the audits  
8 that the State of Mississippi made available, and  
9 I did not receive an audit for 1975.

10 Q. Did you look at the annual report  
11 for 1975?

12 A. I looked -- I read all the commission notes  
13 for all of the years and so to the ex -- I don't  
14 remember if I read all of the annual reports or if  
15 there was an annual report, but I did receive the  
16 Medicaid commission notes.

17 Q. Have you ever worked -- I think you  
18 testified earlier that you never worked within the  
19 Mississippi Medicaid division, have you?

20 A. No, I haven't.

21 Q. So it's just the documents that  
22 you've identified in Exhibits 3 and 4 that you're  
23 going to use to determine the historical summary  
24 of the Mississippi Medicaid division since 1970?

25 A. Well, for Mississippi itself, yes.

1           Q.           How did you determine that it was  
2   necessary for you to testify regarding the  
3   historical summary of the Medicaid division?

4   A.           How did I determine it was necessary?

5                       MR. HAY: Object to the form.

6   A.           I was trying to put the program into  
7   context.

8           Q.           And putting the program into  
9   context, did you ever interview anyone that either  
10   had worked previously or currently works at the  
11   Mississippi Medicaid division?

12   A.           No.

13           Q.           The next line in your disclosure  
14   statement -- before we leave that, in your review  
15   concerning the historical analysis or summary of  
16   the Mississippi Medicaid division, are there any  
17   characteristics of the Mississippi Medicaid  
18   division that you think are significant throughout  
19   the years of the program?

20                       MR. HAY: Object to the form of the  
21   question.

22   A.           Could you repeat the question.

23           Q.           Based on your review of these  
24   documents, are there any characteristics of the  
25   Mississippi Medicaid division that you believe are

1 significant throughout the years of the program?

2 MR. HAY: Same objection.

3 A. There is -- I believe that the consistent  
4 approach that was taken by the state as their  
5 major way of controlling costs until most recently  
6 is a significant issue.

7 Q. Cost controls then. Is that what  
8 you're saying?

9 A. Their major means of cost containment.

10 Q. Major means of cost containment?

11 A. As I see it to be.

12 Q. Any other significant issues?

13 A. There's certainly numerous issues  
14 concerning failure to comply with their state plan  
15 and failure to pay claims in accordance with their  
16 state plan.

17 Q. Okay. Let's -- I want to get those  
18 again. Cost containment is a significant issue in  
19 your review.

20 A. Yes.

21 Q. Failure -- could you repeat those  
22 again?

23 A. Failure to adjudicate claims in accordance  
24 with their state plan.

25 Q. What do you mean by adjudicate

1     claims?

2     A.       It's the term that you use to determine --  
3     it's a process you go through to determine what --  
4     if and what you're going to pay on a claim.  
5     That's what you do to a claim, you adjudicate it.

6            Q.       You mean, for instance, if Dr. X  
7     charged \$5,000 for an aspirin, whether or not I  
8     determine whether to pay him \$5,000 for that  
9     aspirin or not, would that be an adjudication,  
10    would that be an example of an adjudication of a  
11    claim?

12    A.       Yes.

13           Q.       I hope we did fail to pay. And  
14    then you listed another one, a third one?

15    A.       Let's see.

16           Q.       Cost containment?

17    A.       Cost containment, failure of the controls,  
18    failure of the system -- failure of the program  
19    to -- major weaknesses in the policies and the  
20    procedures used by the agency in rate setting.

21           Q.       Was it a failure or was it a  
22    weakness?

23    A.       It was both.

24           Q.       Okay. Let me go back because you  
25    slipped a word in there and I want to make sure

1 we're perfectly clear. You said cost containment,  
2 number one. Failure of controls is what you just  
3 said but you called it failure to adjudicate  
4 claims before that. So if -- please clarify for  
5 me.

6 A. Okay. There was a failure of -- a number  
7 of controls that were in place failed, and there  
8 were numerous weaknesses in those controls. And  
9 the failure of those controls or the weakness of  
10 those controls, one of the things that happened is  
11 that claims were adjudicated and paid that should  
12 not have been paid at the rate they were paid at.  
13 That is one of the things that happened because of  
14 their weaknesses.

15 Q. Okay. And then the third one was  
16 rate setting?

17 A. Right.

18 Q. Can you specify for me the controls  
19 that you're talking about, the failure of what  
20 controls?

21 A. The failure of the -- there are a number  
22 of -- there was failure of the logic, edit logic  
23 in the MMIS that allowed claims to be paid that  
24 should not have been paid.

25 Q. Okay. That turned up where? Where

1 did you find that?

2 A. I saw that in the SPRs, in the system  
3 performance reviews.

4 Q. You can go with the acronym now.  
5 She's rolling now.

6 A. And in spectrum reviews and in --

7 Q. Spectrum reviews. What's that?  
8 That's something we didn't talk about earlier?

9 A. Yes, I certainly did mention that there  
10 were spectrum audits done by the federal  
11 government, and those were audits done by the  
12 federal government or on behalf of the federal  
13 government by CPA firms before they were precluded  
14 from doing such things by the single audit act.

15 Q. SPR, spectrum reviews and what?

16 A. The audits done by the -- by the state  
17 auditor, the single audit. Reports that were  
18 prepared by the PEER Review Committee.

19 Q. P-E-E-R?

20 A. P-E-E-R.

21 MR. YOUNG: All caps on that.

22 A. Reports that were prepared by third parties  
23 such as Lisner Hill and other consulting groups  
24 that were hired by the state and/or Medicaid  
25 agency to look at their program.

1 Q. Can you think of any other?

2 A. Documents -- the -- many documents from the  
3 agency themselves, correspondence from Helen  
4 Weatherbee and other employees and the contract  
5 performance documents from the -- from the time  
6 that those were actually put into place. They  
7 didn't exist the whole time. If they monitored  
8 the contract under Blue Cross, they didn't keep  
9 records of that monitoring or have not provided us  
10 with records of that monitoring. But there is  
11 detailed monitoring once they hire First Health as  
12 a fiscal agent and so those have information. And  
13 what is called the CSR, which is a request to make  
14 changes or improvements of the system or to in  
15 many cases correct deficiencies.

16 Q. And all those documents are  
17 identified somewhere within Exhibits 3 and 4. Is  
18 that right?

19 A. Yes, yes.

20 Q. The failure or major weaknesses in  
21 rate setting, can you tell me rate setting for  
22 what particular type of services?

23 A. Hospitals, nursing homes, home health  
24 agencies, federally qualified health care centers,  
25 rural health centers, prescription drug fees. I

1 apologize. If I remember some more of them, I'll  
2 come back to it. I'm not sure that that's all of  
3 them.

4 Q. And this documentation supporting  
5 these rate setting weaknesses is contained within  
6 Exhibits 3 and 4?

7 A. Yes, they are.

8 Q. Can you give me a nutshell summary  
9 of what documents we're talking about --

10 A. No, I can't.

11 Q. -- that deal with rate setting or  
12 problems with rate setting.

13 A. The audit reports from the internal  
14 auditor, the PEER report. Those are the ones that  
15 come to mind.

16 Q. Okay. And is it your opinion that  
17 these problems have been in -- or that these three  
18 areas have been a problem for the Division of  
19 Medicaid since its inception in 1970?

20 A. Yes.

21 Q. When did the idea of cost  
22 containment first come on the horizon in terms of  
23 Medicaid?

24 A. I guess it depended on what state. I mean  
25 some states it came on the horizon earlier than

1 other states.

2 Q. Well, when did you get out of  
3 school?

4 A. I started working in the Medicaid program  
5 in 1979 in Montana.

6 Q. Was cost containment an issue then?

7 A. I was hired in order to control costs.  
8 That's --

9 Q. How long had cost containment been  
10 an issue?

11 A. Well, it had become an extremely major  
12 issue ever since the nursing home industry  
13 threatened the legislature by threatening to throw  
14 all of the Medicaid patients out of the nursing  
15 home.

16 Q. Well, let's look at the controls  
17 that you talk about that we failed at, apparently  
18 failed at. Those controls, have those, the same  
19 type of controls that you're talking about in  
20 today's terms been available since 1970?

21 A. The control procedures have been available  
22 since 1970. They are easier to employ because of  
23 the advances in the MMIS system and so that you do  
24 not have to do as much manual review.

25 Q. Did you have all these controls

1     that you're touting in the Virginia Medicaid  
2     program?

3     A.       No, we didn't.

4             Q.       Did you have all the cost  
5     containment procedures that you said that the  
6     State of Mississippi failed to do in your Virginia  
7     Medicaid program?

8     A.       No.

9             Q.       What about the rate settings.  
10    Failure in rate setting, has rate setting been an  
11    issue since 1970?

12    A.       Not since 1970.

13             Q.       Well, when did that --

14    A.       Excuse me, excuse me. Are you asking me  
15    about cost containment or are you asking me about  
16    the failure in controls.

17             Q.       I'm on rate setting now.

18    A.       The issue of rating setting, the weaknesses  
19    in controls came into place in nursing homes from  
20    the time they started the program, and it's more  
21    difficult to determine the magnitude of those for  
22    hospitals, exactly when they started. There were  
23    serious problems, but exactly when they started...

24             Q.       Other than these three issues that  
25    we've just talked about, any other significant

1 areas?

2 A. I'm sorry, but we -- I mentioned -- I just  
3 wanted to -- I mentioned cost containment. I  
4 mentioned the weaknesses in controls.

5 Q. And rate setting.

6 A. Rate setting. Okay.

7 Then there's the issue of failure  
8 to actively pursue and deter fraud and abuse.

9 Q. Anything else?

10 A. Those are pretty broad, those are the  
11 pretty broad buckets that the numerous problems  
12 fall into.

13 Q. Are these same issues, is it your  
14 testimony that these same issues are contained  
15 within all Medicaid programs?

16 A. No, I didn't testify to that.

17 Q. Well, is there a Medicaid program  
18 that you know of that these aren't an issue?

19 A. It is my opinion that the weaknesses in  
20 Mississippi -- I have not seen the weaknesses that  
21 are present in Mississippi in either Montana or  
22 Virginia.

23 Q. Did you say these same issues were  
24 present in Virginia when you were there?

25 A. Not all of those issues. You asked me if

1     there were issues -- if we had every cost  
2     containment measure in place in Virginia and I  
3     said no, we didn't.

4             Q.         Why did you choose some cost  
5     containment procedures and not others?

6     A.         I didn't make those choices.

7             Q.         Are you an expert in those  
8     choices? Are those kind of procedures cost  
9     containment procedures?

10    A.         I know a great deal about cost containment  
11    procedures in Medicaid, yes, I do.

12            Q.         But you're saying it wasn't your  
13    duty in Virginia to implement those?

14    A.         Right. It is not my duty which were  
15    selected. It was my duty to implement the ones  
16    that were selected in many cases.

17            Q.         You had no say-so in which ones  
18    were selected?

19    A.         I provided information on -- when I was  
20    asked questions about the savings that would  
21    result from certain cost containment measures, I  
22    provided those. And when I was asked to monitor  
23    the savings that resulted from those, I monitored  
24    those and provided the reports. And I made sure  
25    there were mechanisms set up and I -- and when we

1     were told to implement a cost containment program  
2     in the areas of my responsibility, I assured that  
3     they were implemented.

4             Q.         Within a division of Medicaid, who  
5     selects the cost containment procedures?

6     A.         Actually, the cost containment procedures  
7     that are selected in Virginia are selected by the  
8     legislature.

9             Q.         Do you know who selects them in  
10    Mississippi?

11    A.         It appears that the legislature in many  
12    cases involved -- it appears, from what I've read,  
13    the legislature is the one that is making the  
14    decisions concerning cost containment. Now I see  
15    reports from legislative bodies. At the current  
16    time, it is the legislature. In earlier periods,  
17    it was the Medicaid Commission. And what I'm  
18    talking about is actually decides which initiative  
19    to implement.

20            Q.         It says in your disclosure  
21    statement that you're expected to testify that  
22    Mississippi's Medicaid expenditure's included in  
23    the state's damage calculation. What expenditures  
24    are included in the state's damage calculation?

25    A.         The way I understand what I've read are

1     there's expenditures from the Mississippi Medicaid  
2     program and the state medical program, which I am  
3     not familiar with and have not looked at, and  
4     there may be others, but it's my understanding  
5     that the model does include, and I see them  
6     bringing in data that includes expenditures from  
7     the Medicaid program.

8             Q.         What expenditure's are included in  
9     the state's damage calculations, do you know?

10     A.         I'm not sure what your question is.

11             Q.         Well, you're expected to testify  
12     that Mississippi's Medicaid expenditure's included  
13     in the state's damage calculation. Now I want you  
14     to tell me which Medicaid expenditures that you're  
15     going to testify about are included in the state's  
16     damage calculation.

17     A.         I'm going to testify about all of the  
18     Medicaid expenditures.

19             Q.         Do you know if all the Medicaid  
20     expenditures are included in the state's damage  
21     calculations?

22     A.         No, I don't.

23             Q.         Well, then, how do you know which  
24     ones are not included?

25     A.         Since I've looked at the controls that are

1 in place for the entire Medicaid program, I've  
2 looked at the controls and issues related to all  
3 Medicaid payments.

4 Q. My question to you, Ms. Godbout, is  
5 your statement says that you're going to testify  
6 that the Mississippi Medicaid expenditures  
7 included in the state's damage calculation. Now,  
8 which Medicaid expenditures are we talking about?  
9 Do you know which ones are included in the state's  
10 damage calculation?

11 MR. HAY: Object to the form.

12 A. No.

13 Q. And when you say state's damage  
14 calculation, what damage calculation are you  
15 referring to?

16 A. The calculation of the amount that -- the  
17 model is -- the model that I looked at indicated  
18 that there was a certain amount of Medicaid  
19 expenditures that were resulting from  
20 smoking-related illnesses.

21 Q. Whose model was that?

22 A. It was -- there were two models that I  
23 looked at, and one -- and they both, they both  
24 were trying to come up with a calculation on what  
25 the Medicaid-related expenditures were and didn't

1 in fact have numbers. And I do not know what the  
2 numbers were on either one of them.

3 Q. In fact, you don't know what  
4 expenditure data went into producing either one of  
5 those reports, do you?

6 A. I know that one of the models used the data  
7 from the 2082.

8 Q. It did?

9 A. It purported that it did. As I recall,  
10 yes.

11 Q. Which model was that?

12 A. I don't remember.

13 Q. You don't remember?

14 A. No.

15 Q. But you're going to testify that  
16 the expenditure data is wrong in it and you don't  
17 remember which model we're talking about or which  
18 expenditure data?

19 A. Yes.

20 Q. Now, I want to go back over this  
21 again. You've said you're expected to testify  
22 that Mississippi's Medicaid expenditures included  
23 in the state's damage calculation, and you told me  
24 unequivocally that you don't know what those  
25 expenditures included in the damage calculations

1 are. Is that correct?

2 MR. HAY: Object to the form.

3 A. I know that they include Medicaid  
4 expenditures. I do not know the exact dollar  
5 amount of those Medicaid expenditures.

6 Q. Do you know what categories of  
7 expenditures are included in the damage model?

8 A. I know that certain expenditures were  
9 excluded.

10 Q. I want you to itemize for me what  
11 expenditures from the Medicaid system are included  
12 in -- first of all, I want to know by each  
13 methodology, since you've said you looked and  
14 reviewed every one of them, I want to know which  
15 expenditures, itemize for me, Medicaid  
16 expenditures are included in. And you choose  
17 whichever model you want to start with.

18 A. I can't do that.

19 Q. Do you know?

20 A. No.

21 Q. And then you're going to tell us,  
22 when you haven't reviewed the expenditure data  
23 included in the damage model -- strike that.

24 So that's not correct then?

25 A. Excuse me?

1 Q. Your statement then that you're  
2 expected to testify that the Mississippi Medicaid  
3 expenditures included in the state's damage  
4 calculation, you can't tell us right now as we sit  
5 here today what expenditures are included in the  
6 state's damage models, can you?

7 MR. HAY: Object to the form.

8 A. I know that there are Medicaid expenditures  
9 in there.

10 Q. My question to you is do you know  
11 what expenditures, Medicaid expenditures, are  
12 included in the state's damage calculations?

13 A. No.

14 Q. Do you plan on reviewing the  
15 methodologies and the models before your  
16 testimony?

17 A. I may.

18 MR. YOUNG: Off the record.

19 (There is a discussion off the  
20 record.)

21 Q. Do you plan to review the models  
22 and methodologies in this case before you testify?

23 MR. HAY: Object to the form of the  
24 question.

25 A. Not the methodologies, necessarily.

1 Q. Do you plan to review the reports  
2 of any of the damage experts for the state  
3 regarding your testimony in this case?

4 A. I'm not completely through with my review,  
5 and nor have I indicated that I was through with  
6 my review, and I --

7 Q. You told me your disclosure  
8 statement is final.

9 A. I testified to that?

10 Q. You certainly did.

11 MR. HAY: On the areas that -- as  
12 to the areas that she's going to testify, it's  
13 final, right.

14 MR. YOUNG: You know the purpose of  
15 an expert deposition is to find out what the  
16 witness is going to testify to at trial. Now, if  
17 she's sitting here telling me she can't determine  
18 what her testimony is going to be concerning the  
19 expenditures included in the state's damage  
20 calculation, she shouldn't be offered up as an  
21 expert witness or offered to provide deposition  
22 testimony right now.

23 MR. HAY: I don't think she's  
24 testified as to that.

25 MR. YOUNG: Well, I'll ask her for

1 the umpteenth thousandth time.

2 Q. Ms. Godbout, can you tell me what  
3 expenditures are included in the state's damage  
4 calculation?

5 A. No.

6 Q. So then it's also true that you  
7 can't tell me whether or not these expenditures  
8 accurately reflect the actual and reasonable cost  
9 of necessary medical care because you don't know  
10 what the expenditures are?

11 A. Excuse me. What I've said that I would do  
12 is testify to the fact that the, these  
13 expenditures, Medicaid expenditures, do not  
14 recommend a full proper amount of medical  
15 expenditures for services under the state Medicaid  
16 program. The incurred expenses of Mississippi do  
17 not actually reflect the reasonable and necessary  
18 cost of necessary medical care.

19 Q. What Medicaid expenditures?

20 A. All Medicaid expenditures in Mississippi.

21 Q. You said the ones included in the  
22 state's damage calculation.

23 A. Well, it may be what intent is to -- it may  
24 be wording and I may be playing a game of  
25 semantics. I'm talking about the Mississippi

1 Medicaid expenditures.

2 Q. Let's not play games with  
3 semantics, Ms. Godbout. Do you know what the  
4 Medicaid expenditures are that are included in the  
5 state's damage calculation?

6 A. I can't list them.

7 Q. Well, if you can't list them out,  
8 how do you know that they accurately reflect or  
9 fail to accurately reflect the necessary and  
10 reasonable cost of the Medicare if you don't know  
11 what issues are at issue?

12 A. If the total are not reasonable and they're  
13 not accurate, how could any one part of them be  
14 reasonable or accurate?

15 Q. So you're drawing conclusions on  
16 the whole?

17 A. Well, the whole is made up of individual  
18 claims, unless it's paid some other way than what  
19 they've identified in their state plan. If the  
20 amount that is paid for individual claims is  
21 inaccurate, wasn't supposed to be paid, is paid at  
22 the wrong rates, then it doesn't matter what slice  
23 you take of that Medicaid expenditure, it is still  
24 going to be unreasonable and unnecessary.

25 Q. I see. So you've looked at the

1 actual claims data?

2 A. No, I have not.

3 Q. Okay. When you say these  
4 expenditures that you say are included in the  
5 state's damage calculation, even though you can't  
6 identify them, do not accurately reflect the  
7 actual and reasonable cost of medical care, what  
8 do you base that on?

9 A. I base that on the documents that I  
10 reviewed from the auditor, from the -- the reviews  
11 conducted by the federal government, by the PEER  
12 review, by the external agencies and by the  
13 reports of staff of the Medicaid division.

14 Q. You also go on to say that, "nor do  
15 these expenditures reflect the proper amount of  
16 medical expenditures for services under the terms  
17 of the state Medicaid program."

18 A. Yes.

19 Q. Do you stand by that statement?

20 A. Yes.

21 Q. What do you mean by proper amount  
22 of medical expenditures?

23 A. That --

24 Q. Would you define proper, please,  
25 for me?

1       A.       Under proper, when I use the term, I meant  
2       the -- that they were expenditures that should  
3       have been incurred when the claims were processed  
4       in accordance with the state plan and that they --  
5       that the service was medically necessary, that the  
6       service was actually rendered, that it was  
7       rendered to an individual that was eligible for  
8       those services, and that it had not been paid  
9       previously and that it was paid at a correct rate.

10       Q.       So you've gone back and looked at  
11       it on a claim-by-claim basis?

12       A.       No.

13       Q.       How have you done it, then?

14       A.       I've looked at the reports that were  
15       provided by the internal auditors -- by the  
16       legislative auditors, by the federal government  
17       under the SPR reviews, by the staff of the  
18       Medicaid bureau, Medicaid division, and other  
19       documents that are included in --

20       Q.       Exhibits 3 and 4?

21       A.       Yes.

22       Q.       Did they say all claims were  
23       mispaid?

24       A.       No.

25       Q.       Did they say all claims were

- 1       mispaid for 1995?
- 2       A.       No.
- 3       Q.       For 1993?
- 4       A.       No.
- 5       Q.       '89?
- 6       A.       No.
- 7       Q.       So it's a fraction of the claims?
- 8       A.       They didn't look at all the claims.
- 9       Q.       Oh, okay. And you have not looked
- 10      at all the claims. Is that correct?
- 11      A.       That's correct.
- 12      Q.       Let's go back to the HCFA 64 for a
- 13      second. Remember us discussing that earlier,
- 14      before lunch?
- 15      A.       Yes.
- 16      Q.       Can you tell me again what's on
- 17      that form?
- 18      A.       The form includes expenditure data. The
- 19      form is prepared quarterly and it includes
- 20      expenditure data, current period expenditure data
- 21      on benefits and administration. And the federal
- 22      government has very clear instructions of which
- 23      are to be considered benefits and which are to be
- 24      considered administrative costs.
- 25      Q.       So it separates the two?

1 A. Yes, it does. So you have all of your  
2 expenditures, and you are to report net  
3 expenditures, but they want them reported gross.  
4 And then you are to report all receipts of revenue  
5 or other actions that would net those expenditures  
6 down to the final actual expenditures.

7 Q. Okay. What data is used to produce  
8 the HCFA 64?

9 A. Data from the claims payment system.

10 Q. Is that the MMIS?

11 A. MMIS. Data from the accounting records of  
12 the state agency and -- there may be more than one  
13 accounting system from the state agency.

14 Q. Do you know if there is in  
15 Mississippi?

16 A. It appears that there is one.

17 Q. Which is what?

18 A. Their state -- they have an accounting  
19 system.

20 Q. Within the Division of Medicaid?

21 A. Right, in the state. And I'm sorry that I  
22 can't remember the acronym. I will shortly  
23 because it's not very different from the acronym  
24 that was used in Virginia, but I can't remember  
25 the acronym for their state accounting system.

1 Q. And you certified HCFA 64s before  
2 in your work in the State of Virginia. Is that  
3 correct?

4 A. Yes, I have.

5 Q. And when you're certifying  
6 something, what are you saying?

7 A. I'm saying to the best of my knowledge -- I  
8 can't remember exactly what the statement says,  
9 but something, to the best of my knowledge, that  
10 this represents the expenditures and data that are  
11 included in our records.

12 Q. And so it's certified based on what  
13 is known at the time?

14 A. Yes. Yes.

15 Q. Okay. Can you ever correct that  
16 data?

17 A. Yes. As a matter of fact, I didn't finish  
18 in the fact that the 64 -- there's also a section  
19 of the 64 where you have prior period adjustments,  
20 and there you would enter all your prior period  
21 adjustments as you knew them to be on that date.

22 Q. What are prior period adjustments?

23 A. Those are adjustments to expenditures that  
24 you had reported earlier.

25 Q. What type of adjustments?

A. WILLIAM ROBERTS, JR., & ASSOCIATES

1 A. Oh, there can be all kinds of adjustments.  
2 You may have overstated your expenditures. You  
3 may have overstated your revenues. You may have  
4 understated your expenditures.

5 Q. Oh, I see. So in the event you  
6 find -- this is how you're telling me you can  
7 correct the data?

8 A. Yes. I'll wait until my next time to  
9 report on my HCFA 64. If anything is brought to  
10 my attention in the interim, I can correct it on  
11 the next HCFA 64.

12 Q. Is that right?

13 A. Well, you are required to report  
14 expenditures correctly and to certify them  
15 correctly, but if you, for example, report  
16 expenditures for benefits and subsequent to that  
17 receive recoveries, then you would report those  
18 recoveries. Or if you got an audit adjustment  
19 from the federal government because they disagreed  
20 with what was being paid, that you would have to  
21 adjust that prior period 64.

22 Q. I see. Did this ever occur when  
23 you worked in Virginia?

24 A. Yes.

25 Q. And did you make those corrections?

1 A. Yes. They were made and I reviewed them  
2 and signed the document.

3 Q. Do you think that there were errors  
4 in the HCFA 64s that you certified that you didn't  
5 correct for?

6 A. There may have been. It was not  
7 intentional, but there may have been.

8 Q. Based on your experience with the  
9 Medicaid division, can you expect a Medicaid  
10 division to catch every error that could possibly  
11 be there in terms of expenditure data?

12 A. If you had all the systems you needed and  
13 all the resources you needed, you should be able  
14 to do it.

15 Q. Can a state afford all the systems  
16 you need? Do you know a state that operates that  
17 way?

18 A. I haven't worked in one.

19 Q. If you had a HCFA 64, how would you  
20 know if corrections needed to be made to that HCFA  
21 64?

22 A. Once the 64 is submitted, you can't change  
23 the 64. It stands as it is.

24 Q. Okay. Subsequent to its  
25 submission, how would you determine whether or not

1 information needed to be changed on that or  
2 reported in the changes, needed to be reported in  
3 the next HCFA 64?

4 A. There's -- they ask -- there are a set of  
5 directions and there's a set of lines, and then  
6 you would go through it and you would verify in  
7 your accounting records that you hadn't received  
8 this revenue, that you hadn't done, you know, you  
9 would check to make sure that -- and you set up --  
10 if you set up a good accounting system, you set up  
11 an accounting system that will reflect the numbers  
12 that you can easily draw out which needs to be  
13 adjusted.

14 Q. Can you give us an example in  
15 Mississippi of a finding which you think indicates  
16 the expenditures were wrong?

17 A. Any one? Duplicate payments were paid.

18 Q. Okay. And where would that be  
19 reported?

20 A. That was reported in the audit records and  
21 in the --

22 Q. Is that another term for  
23 overpayments, duplicate payments?

24 A. It means the payment -- it's overpayment  
25 because the claim was paid twice.

1           Q.           Was it reported as an overpayment  
2           or is there a separate category of how it's  
3           reported as a duplicate payment?

4           A.           It's a term that's used in Medicaid that  
5           I'm sure everyone uses it to mean the same thing,  
6           and that is that it's a duplicate claim. It means  
7           the exact same claim for the exact same service  
8           was processed.

9                       And you are required to be sure  
10          that you deny all duplicate claims and you are to  
11          have edits in your system that prevent you from  
12          paying claims twice. And the edits logic failed  
13          in the Blue Cross system and the First Health  
14          system and apparently in the system designed by  
15          First Health when it was operated by EDS, which  
16          duplicate claims were paid.

17          Q.           Did you ever have those problems in  
18          Virginia?

19          A.           I don't remember duplicate claims ever  
20          being made.

21          Q.           Did you ever have overpayments?

22          A.           We had overpayments resulting from, for  
23          example, retrospective rate setting. I don't  
24          remember being -- receiving reports when I was in  
25          Virginia about the failure of the system that

1     resulted in payments of claims in excess or -- or  
2     processing of claims that should not have been  
3     processed.

4             Q.         Well, let me ask you this. On  
5     overpayments, is that one of the things you can  
6     subsequently adjust on your next HCFA 64?

7     A.         If you made over -- yes.

8             Q.         These would be brought, for  
9     instance, overpayments would be brought to your  
10    attention in a given year by an audit. Is that  
11    right?

12    A.         If you're lucky.

13            Q.         Okay. Assuming it is, and you  
14    testified that there were overpayments or  
15    duplicative payments.

16    A.         Yes.

17            Q.         Are duplicative payments something  
18    you could adjust for in your HCFA 64?

19    A.         It would depend on how you handle it. If  
20    you paid any duplicate payment, and how you  
21    recovered it would be by processing a claim  
22    through the system and denying the second claim  
23    and adjusting your MMIS, if that is what you did,  
24    then that would be -- that would be a current  
25    period expenditure in your HCFA -- in your MMIS

1    which would be affecting the data that you brought  
2    in current period.  So there's -- not everything  
3    is done that way.  Things are done very many  
4    different ways.  But the proper way to handle a  
5    duplicate claim would be to reprocess and deny in  
6    the system.

7           Q.       But there are different ways to  
8    handle?

9    A.       Yes.  For example, in some cases there is  
10   no way to do that.  For example, if you paid a  
11   claim -- you made -- let's say you pay \$100,000  
12   worth of claims for an SSI recipient because of an  
13   automobile accident or motorcycle accident.  
14   Everybody pays them; nobody likes them.  So you  
15   pay \$100,000.  And they're paid in little tiny and  
16   bigger chunks, depending whether you're paying for  
17   acute care or ambulatory care.  At one time you  
18   may -- many of those cases have lawsuits involved  
19   and there can be a recovery which you are  
20   subrogated to by law.

21           Q.       Third-party recovery, right?

22   A.       Yes, and you're subrogated by law.

23                   And when -- let's say that there's  
24   \$100,000 collected.  It's up to the court to  
25   determine, you know, through the process, I'm sure

1 you're familiar with the process, that there's  
2 going to be a decision about how much is paid.  
3 And then some amount of money, usually less than  
4 \$100,000, is going to come back to the state. And  
5 you're not going to be able to match claim for  
6 claim, you're not going to be able to do that.  
7 You might get back \$50,000.

8 Q. So you just report it on your HCFA  
9 64?

10 A. Report it as recoveries, lump sum.

11 Q. But your adjustment is made  
12 nonetheless?

13 A. Right. But the problem with making -- the  
14 problem with that kind of adjustment is that you  
15 can't tell then when you're going back and  
16 somebody's asking you how much do you spend on  
17 aged as compared to disabled as compared to AFDC,  
18 when you have to make those lump sum adjustments,  
19 you can't tell them because you haven't gone back  
20 and reprocessed. And if they're asking you how  
21 much you spend on people over 65 years of age, you  
22 don't have that accurate data anymore because  
23 you've made these lump sum adjustments, and so  
24 your 2082 data is incorrect.

25 Q. You're talking about duplicative

1 payments or overpayments. Have you looked to see  
2 whether or not Mississippi made any adjustments or  
3 corrections for these problems that you're  
4 testifying about?

5 A. I saw requests being made that adjustments  
6 and recoveries be made.

7 Q. Do you know if they were made?

8 A. I don't know if they were all made.

9 Q. In fact, you don't know if any were  
10 made, do you?

11 A. Yes, I do, if some were made.

12 Q. And which ones would those be?

13 A. I can't tell you without looking at the  
14 CSRs. If you want to get the CSRs.

15 Q. Have you looked at any of the HCFA  
16 64s to determine whether any adjustments were made  
17 for any of these issues that you talked about?

18 A. I couldn't gather that information from the  
19 64.

20 Q. You couldn't tell if third-party  
21 adjustments were made by looking at the 64s?

22 A. I couldn't tell if individual adjustment --  
23 I identified individual problems because of  
24 duplicative claims, and that was the example you  
25 used, and I would not be able to find on the 64 if

1     there was any adjustments made for duplicative  
2     claims paid.

3             Q.         For an individual?

4     A.         For an individual or in total. But I could  
5     find that there was adjustments made for  
6     third-party liability post-payment review --  
7     recoveries. I could do that. But not for  
8     individuals.

9             Q.         And you've not looked at the  
10    individual claims data, correct?

11    A.         That's correct.

12            Q.         So you're saying that if a HCFA 64  
13    shows a payment of say \$100,000 for a given year  
14    and I've got a third-party liability adjustment on  
15    there, you can't determine -- and then I have  
16    total expenditures -- strike that.

17                   MR. YOUNG: Do you have another  
18    copy of her report in this?

19    A.         I have not prepared any report, nor have I  
20    testified I prepared any reports.

21                   MR. HAY: You mean her notes?

22            Q.         I have changed this report to add  
23    the results of my results of -- the audit reports  
24    you sent.

25                   So you're calling it a report

1 here.

2 A. I call it a preliminary draft report.

3 Q. Well, is it a report? Are you  
4 saying it's a report?

5 A. It's notes in preparation -- it's notes to  
6 be a report.

7 Q. So you're going to prepare a  
8 report?

9 A. No, I'm not going to prepare a report. I'm  
10 not required to prepare a report. I was confused  
11 and I thought I was required to prepare a report.  
12 I learned I was not required to prepare a report  
13 and I'm not going to.

14 MR. YOUNG: Let me see if you have  
15 another copy of this.

16 MR. HAY: Okay. Give me a second.

17 (Exhibit Godbout 5 is marked for  
18 identification.)

19 Q. Tell me everything you know about a  
20 HCFA 97 report.

21 MS. NATHAN: 64, you mean?

22 A. I don't know anything about a HCFA 97.

23 Q. Strike that.

24 A. They all have three numbers except 64, that  
25 I know of and the 2082.

1 Q. Mrs. Godbout, I'm handing you  
2 what's been marked as Exhibit 5. Would you look  
3 at that for me, please.

4 A. (Witness complies.)

5 Q. Do you generally recognize that as  
6 the draft report notes -- I'll let you  
7 characterize it.

8 A. These are some preliminary -- it's a  
9 preliminary working draft that was prepared  
10 1/18/97.

11 Q. It's my understanding that you do  
12 not intend to format this into any type of report  
13 to be submitted to the court or into evidence in  
14 this particular case. Is that correct?

15 A. Yes.

16 Q. If you could turn to page 107, the  
17 Bates stamp number PG 00107. It's actually page  
18 five. If you could, if you could look at the  
19 second paragraph on that page, please. Read it to  
20 yourself. You don't have to read it into the  
21 record.

22 Actually, why don't you read it  
23 into the record, so we'll make sure, if you don't  
24 mind.

25 A. "A federal audit concerning provider

1     billing practices for federal fiscal year '82  
2     determined that duplicate payments were" -- this  
3     is a draft and you see that the wording is not  
4     perfect, but what it says exactly, "were in made  
5     in the category of emergency room visits."

6                     My intent was to say that duplicate  
7     payments were made in the category of emergency  
8     room visits and that duplicate payments and  
9     incorrect adjustments and payments were made in  
10    the categories of hospital visits and surgical  
11    procedures. In the emergency room category, 9  
12    percent of the paid claims reviewed were  
13    duplicates. In the area of hospital visits, 10  
14    percent of the claims were duplicates or had  
15    incorrect adjustment or payment.

16                    Q.        Okay. Now, what is this an example  
17    of? You've obviously included that in your notes  
18    or reports. What would you characterize this as  
19    being an example of?

20                    A.        This is an example of one of the findings  
21    that I had from reviewing a document that  
22    indicated that the -- this state was not paying  
23    claims in accordance with the state plan and had  
24    weaknesses in its controls.

25                    Q.        So this is a finding that you would

1     determine indicates that the expenditures were  
2     wrong in Mississippi. Is that correct?

3     A.       That they were overstated or incorrect,  
4     yes.

5             Q.       Do you know what the state's  
6     response in fiscal 1992, or the following year for  
7     that matter, was to this particular finding?

8     A.       I cannot remember what it was. I will say  
9     that I reviewed their responses, because they are  
10    very important, and tried to take into account,  
11    hopefully did take into account in every case  
12    where if they disagreed that -- and it was later  
13    removed, that I would not have included that in my  
14    decision. I cannot remember on this specific  
15    finding, in the specific review, whether that was  
16    agreed to or not.

17            Q.       Well, where would you look to find  
18    that response?

19    A.       In most cases they were connected onto the  
20    back of the report. I think in every case. I  
21    don't think I had to go looking for them.

22            Q.       You don't recall what was taken or  
23    what was done?

24    A.       I don't recall what the response was.

25            Q.       Can you tell me what this example,

1    what impact this particular example had on the  
2    expenditures for fiscal year 1992, overall  
3    expenditures by the Medicaid division?

4    A.       The expenditure were overstated.

5         Q.       By how much? Quantify how much  
6    they were overstated.

7    A.       Well, 9 to 10 percent would be what the  
8    audit found. But I can't -- I don't know, I do  
9    not know if they did a stratified random sample in  
10   order to pull their sample, so I cannot project  
11   that number.

12        Q.       You can't come up with a dollar  
13   figure as to this example, what this example would  
14   mean in terms of total expenditures in  
15   Mississippi?

16   A.       No.

17        Q.       Do you even know how you would  
18   quantify the impact of this finding?

19   A.       No.

20        Q.       Can you testify whether or not  
21   this -- any amount was or was not corrected on a  
22   subsequent HCFA 64 as a result of this finding?

23   A.       No.

24        Q.       So you don't know whether the state  
25   corrected its expenditures to reflect this

1 particular finding, do you, Ms. Godbout?

2 A. No. But correcting the paid claims in this  
3 specific example would not be sufficient, in my  
4 mind, to take care of the entire problem. They  
5 pulled an example of claims and they found 9  
6 percent in one case and 10 percent in another case  
7 mispaid. And if their corrective action would be  
8 to go back and redo those claims and call that  
9 corrective action, then I would say that that was  
10 very lacking in corrective action.

11 Q. Do you know what they did?

12 A. No.

13 Q. So you can't make an opinion --

14 A. I can't remember what they did without  
15 looking at my -- without looking back at those  
16 reports. And I will look --

17 Q. You said you wouldn't include  
18 anything in here -- you would give deference if  
19 there was corrective action taken, didn't you?

20 A. No, I did not say that. I said I would  
21 take into consideration any time that they  
22 disagreed with the finding is exactly what I  
23 said. If they disagreed with the finding and  
24 provided evidence that in fact that finding was  
25 incorrect, then -- and the auditor agreed with

1       them, I would disregard that.

2               Q.       Would it not be important to you to  
3       determine whether or not they quantified the  
4       amount and took care of it on a subsequent HCFA  
5       64?

6       A.       If they provided evidence of that and I see  
7       that evidence and it is undoubtedly marked on the  
8       document that I have, then I would take that into  
9       consideration.

10              Q.       Have you looked for that evidence?

11      A.       Have I reviewed the records to see --

12              Q.       Have you looked to see if they  
13       corrected on the HCFA 64 for this particular  
14       finding?

15      A.       No.

16              Q.       Is that fair?

17                      MR. HAY:   Object to the form of the  
18       question.   What does that mean?

19      A.       What do you mean by fair?

20              Q.       What I mean by fair is you're  
21       testifying that the Medicaid system is making  
22       overexpenditures.   Is it fair to make those  
23       statements without taking into account whether  
24       they've corrected for these supposed  
25       overexpenditures?

1     A.       The fact stands that their system routinely  
2     and regularly overpaid and mispaid claims and that  
3     the only time that I saw them taking action,  
4     outside of a short period with First Health to  
5     correct those, was when they had an audit report  
6     and they reacted to that -- that finding  
7     concerning that audit report. And I did not see a  
8     corrective action that said we will reprocess all  
9     claims for emergency rooms and take the proper  
10    action. I never saw a corrective action statement  
11    like that.

12           Q.       And your testimony is that you, as  
13    you sit here, can't quantify a dollar amount as a  
14    result of this finding as to how much the  
15    expenditures for the State of Mississippi would be  
16    overstated as a result of this finding?

17    A.       No.

18           Q.       And you do not know whether or not  
19    the Division of Medicaid adjusted in any way for  
20    this particular finding on a subsequent HCFA 64?

21                   MR. HAY: Object to the form. You  
22    can answer.

23    A.       Can you -- I'm sorry, will you ask the  
24    question again?

25           Q.       I certainly will. You don't know

1 as we sit here today whether or not the Division  
2 of Medicaid adjusted its HCFA 64 because of this  
3 finding?

4 A. No.

5 MR. HAY: Same objection to the  
6 question.

7 Q. Can you give me an example of cost  
8 containment?

9 A. Managed care.

10 Q. Well, what are some examples of  
11 cost containment on managed care?

12 A. Implementing a PPO or HMO or HIO. Sorry.  
13 Implementing primary care physician, which is  
14 usually referred to in the jargon as gatekeeper.  
15 And it's a fee for service program, but the  
16 eligible is assigned to one primary care physician  
17 and they must receive permission and authorization  
18 from that provider in order to receive additional  
19 treatments.

20 Q. Okay. Aside from the gatekeeper,  
21 what are some other examples of --

22 A. There's an HMO model.

23 Q. Okay.

24 A. And the HMO model, under the HMO model, the  
25 contract is between -- would you like me to deal

1 with Medicaid only in the HMO model?

2 Q. Just HMO as an example of cost  
3 containment procedure.

4 A. In the area of Medicaid, there would be a  
5 contract between the Medicaid agency and the HMO  
6 provider, contractor. And there would be a  
7 contract -- there would be a request for proposal  
8 and there would be a response to that proposal,  
9 and based on that, payments -- eligibles would be  
10 assigned to that HMO and the HMO would assign  
11 those patients to a physician. And the HMO is  
12 responsible for the cost of the care of that  
13 person.

14 Q. Any other examples of cost  
15 containment?

16 A. Well, there's numerous models of managed  
17 care, but those are two of them, and I don't mean  
18 to mean that they're the only two. There are  
19 activities such as in the area of hospital  
20 reimbursement, moving from prospective  
21 reimbursement to -- from retrospective  
22 reimbursement to prospective reimbursement, or  
23 moving from prospective reimbursement to  
24 reimbursement based on diagnostic-related  
25 groupings, which I refer to as DRGs. They're

1 numerous.

2                   So those are some of the type of  
3 cost containment activities you can implement to  
4 reduce hospital costs. Prior authorization,  
5 concurrent reviews of hospital stays are cost  
6 containment measures. The limiting reimbursement  
7 in emergency rooms for nonemergent services to  
8 what would have been paid in the physician's  
9 room -- physician's office. I mean, there's  
10 numerous, numerous examples. Those are just a  
11 couple.

12               Q.       Well, are substance abuse programs  
13 a type of cost containment procedure?

14       A.       When I use the term cost containment, I  
15 mean activities that you implement to reduce your  
16 costs in Medicaid. And the coverage of drug  
17 treatment, is that what you're talking about? The  
18 coverage of drug treatment as compared to the  
19 noncoverage of drug treatment?

20               Q.       My question is cost containment as  
21 you know it. Does substance abuse, do substance  
22 abuse programs fall into that?

23       A.       It wouldn't fall under my definition.

24               Q.       Okay. Well, then, you tell me what  
25 definition of yours substance abuse programs would

1 fall under.

2 A. It's a medical service.

3 Q. It's a medical service? Do health  
4 care systems routinely look at things like  
5 substance abuse programs, preventive type medicine  
6 programs, in order to get their health care costs  
7 under control?

8 MR. HAY: Object to the form of the  
9 question.

10 A. I've never personally looked to drug  
11 prevention programs as a means of -- as a means of  
12 cost containment. I looked at --

13 Q. You have looked at it, haven't you?

14 A. Yes.

15 Q. In what arena?

16 A. In the arena of when I was in the  
17 Department of Social Services, to determine if  
18 that would be something that we would  
19 appropriately want to spend foster care money on.

20 Q. Why?

21 A. Why?

22 Q. Why would you or would you not want  
23 to spend money on a drug abuse program?

24 A. If there are foster care children who have  
25 drug abuse problems, would the state want to

1 provide the care to cure those problems or to at  
2 least alleviate or remediate those problems.

3 Q. Why would that --

4 A. Pardon?

5 Q. Why would that be important?

6 MR. HAY: Object to the form.

7 A. What I said is that what we would want to  
8 do is to see if expenditures in that area would  
9 alleviate or remediate drug abuse. If you  
10 determine that the alleviation or remediation of  
11 drug abuse was something that you wanted to do,  
12 then it would be important. If you determine that  
13 it was something you would not want to do, it  
14 would be deemed unimportant.

15 Q. Let's take a hypothetical for  
16 example. If you were paying for drug abuse,  
17 medical treatment for drug abuse, wouldn't you  
18 want to look at whether or not implementation of a  
19 drug abuse program would help you in controlling  
20 the cost of paying for drug abuse?

21 A. Let's see. I guess -- I'm not trying to be  
22 difficult -- I'm confused. Will you ask the  
23 question again and I'll try to --

24 Q. Certainly. If you're running a  
25 Medicaid program and you're paying, you're

1 expending state dollars on treatment for drug  
2 abuse, would you not want to look into having a  
3 program to prevent drug abuse in an effort to  
4 contain costs associated with that activity?

5 A. To actually run a drug abuse program,  
6 Medicaid?

7 Q. I don't know who runs it. I'm  
8 talking about Medicaid paying for that in terms of  
9 trying to prevent the costs associated with drug  
10 abuse.

11 A. Okay, so your question is if you were  
12 paying for drug abuse treatment under the Medicaid  
13 program, would you want to look to determine if  
14 there was -- if you should continue to do that?

15 Q. My question to you, Ms. Godbout, is  
16 if you're paying for health care related to drug  
17 abuse, all right, would you not, in managing a  
18 Medicaid system, or any other kind of health care  
19 system, want to look at implementing a drug abuse  
20 preventive program in order to help curtail your  
21 costs associated with that activity?

22 A. I have a difficult time answering the  
23 question. Medicaid does not operate programs and  
24 does not provide -- they're -- they're like an  
25 insurance company. They either cover services or

1 do not cover services.

2 Q. Okay. Are you familiar with any  
3 insurance companies or any Medicaid programs that  
4 put in preventive type programs in order to help  
5 contain their costs?

6 A. They cover preventive type services. Yes,  
7 I do.

8 Q. And what type of preventive  
9 services?

10 A. I'm most familiar with the kinds of  
11 preventative services that they provide under the  
12 earlier periodic screening, diagnostic and testing  
13 programs. EPSDT, and there are all kinds of  
14 screenings and testing that -- and there's a  
15 periodicity as well that indicates that even  
16 though a child is not sick, they should get  
17 screenings, they should get lead screenings and  
18 each of their immunization shots. That is a major  
19 preventive health care measure in Medicaid.

20 Do I -- have I experienced where  
21 insurance companies do that? Not to that extent  
22 that I'm familiar with in terms of preventive  
23 health care for children.

24 Q. And why are they interested in  
25 putting in these preventative health care

1 measures?

2 A. Why are the states interested in doing it?

3 Q. Yes.

4 A. Because if they don't do it, the federal  
5 government will not fund their Medicaid program is  
6 one of the reasons.

7 Q. What's the other reason?

8 A. Because they're interested in children  
9 having -- in having healthy children.

10 Q. Why is that important?

11 A. Because if you have healthy children,  
12 hopefully you have reduced medical costs.

13 And as I indicated much earlier,  
14 that was one of the major problems I had with what  
15 Mississippi used as the cost containment measure.  
16 And their major cost containment measures  
17 prevented, in many cases, people from getting the  
18 necessary preventive and primary care that they  
19 needed, and ended up with a population that,  
20 because of the lack of adequate ambulatory care  
21 available, they incur unnecessary hospital costs.

22 Q. Well, would a smoking cessation  
23 program be a type of preventative program?

24 A. Smoking cessation programs are used in  
25 special programs for pregnant women, the only ones

1     that I am aware of.

2             Q.           In the Medicaid arena?

3     A.           In the Medicaid arena.

4             Q.           And why would it be important for a  
5     pregnant mother to not smoke?

6     A.           The same reason it's important for them not  
7     to drink.

8             Q.           You tell me. Why would it be  
9     important for them not to smoke?

10    A.           There are -- there's medical -- the  
11    physicians say that it harms the health of the  
12    baby and that -- I'm not in a position to argue  
13    with them. And if in fact that is what the  
14    doctors are recommending and it will in fact  
15    reduce costs, particularly with pregnant women,  
16    I'm going to try anything.

17            Q.           If it will somehow reduce costs.  
18    What costs?

19    A.           Well, some of the most expensive costs that  
20    you incur in Medicaid are related to -- and it  
21    doesn't happen very often, but are related to the  
22    health care issues of newborns.

23                        Now, we did a study in Virginia and  
24    found out that actually the reasons that we had  
25    high NICU costs was because we had teenage

1 mothers. And the teenage mothers were not going  
2 to come to full delivery, so it didn't matter what  
3 you did. And I was told by the university  
4 professors at the medical school that there wasn't  
5 anything I could implement except to prevent  
6 teenage mothers from becoming pregnant. But one  
7 of the things you would try to do is, if in fact  
8 you would try to do anything, was to reduce -- to  
9 bring the birth to full term. Because the shorter  
10 the term, the more likelihood you are to incur  
11 high costs for neonatals.

12 Q. In that context, it would be  
13 important to prevent smoking among pregnant  
14 mothers.

15 MR. HAY: Object to the form.

16 Q. Is that right? Is that your  
17 understanding?

18 A. What I testified is that physicians  
19 indicated that smoking was harmful to the health  
20 of the infant, or the -- not the infant, the  
21 neonatal. And that given the expenses related to  
22 neonatal cases, that I personally and many states  
23 would take any action that we thought would  
24 lengthen the term of that, to bring the birth to  
25 full term.

1 Q. And preventing smoking would be one  
2 of those measures. Isn't that right?

3 A. What I can say about that is that  
4 physicians take that position. And I did not  
5 argue with it because I would try anything.

6 Q. Because your Medicaid program was  
7 picking up the tab for that. Isn't that right?

8 A. They were picking up the tab for  
9 neonatals. But as I indicated to you, when we  
10 went to look to see what really was causing the  
11 neonatal costs, it didn't have anything to do with  
12 smoking, it had to do with teenagers.

13 Q. Where was that again?

14 A. In Virginia.

15 Q. Richmond?

16 A. Yes.

17 Q. Have you looked at all the studies  
18 across the United States on neonatal costs  
19 associated with smoking?

20 A. No, I have not.

21 Q. Can you give me examples, please,  
22 of cost containment measures you believe the State  
23 of Mississippi should have taken and did not?

24 A. I believe that they should have implemented  
25 retrospective reimbursement for nursing homes and

1 hospitals at a much earlier date than they did. I  
2 believe that they should have implemented managed  
3 care, capitated managed care at a much earlier  
4 date than they did. I believe that they should  
5 have implemented the estate recovery law at a much  
6 earlier date than they did. I believe that they  
7 should have determined -- actually determined that  
8 it was more cost effective to continue to  
9 reimburse hospitals on a prospective basis than it  
10 was to move to a DRG system, that they should have  
11 examined the program instead of just passing it  
12 off and saying that we were not going to do that,  
13 which is what, according to their records, they  
14 did. I believe that they should have put limits  
15 on emergency room services at the beginning of the  
16 program instead of waiting until they were into  
17 the capitation program.

18                   There are so many. Do you want me  
19 to list every one of them?

20           Q.       No. That's okay. You've given me  
21 a generally good idea.

22                   Can you quantify for me in a dollar  
23 figure, please, by year or in total, the cost  
24 expended by the State of Mississippi for not  
25 implementing these cost containment procedures?

1 A. No.

2 Q. Has it been your experience that in  
3 working with Medicaid, people recommend different  
4 cost containment procedures?

5 MR. HAY: Object to the form.

6 A. I'm not sure generally who you mean. Do  
7 you mean me?

8 Q. How do you come up with a new idea  
9 for a cost containment procedure working within  
10 the Medicaid framework?

11 A. How do I do it?

12 Q. How did you do it?

13 A. How did I do it? I used information on our  
14 expenditures -- we had economists, statisticians  
15 that worked for me and we would -- and we had a  
16 policy group that was made up of policy analysts  
17 and included people with Master's degrees in  
18 health care. And we would review our expenditures  
19 and try to determine -- we monitored very  
20 carefully. We tried to determine what was causing  
21 expenditures to increase.

22 And, for example, how we got into  
23 the NICU study is we did a study of all  
24 expenditures for cases that the expenditures were  
25 in excess of \$75,000. We wanted to look at why

1 every case -- we wanted to look at every case that  
2 had an expenditure over \$75,000. And we found  
3 that an inordinate number of those cases were  
4 neonatals. And we pulled every single neonatal  
5 case that we paid for and asked the hospital to  
6 provide us with access to the reports for those  
7 neonatal cases and had our physicians in the  
8 agency review the records so that we could  
9 determine what we could do to reduce those costs.  
10 So that would be one thing.

11 Basically what we came up with is  
12 somehow controlling the behavior of the teenage  
13 mothers. That was not going to be an effective  
14 area of cost containment.

15 Q. When you're looking at whether or  
16 not to implement a certain cost containment  
17 procedure, do you look at the cost of implementing  
18 that procedure in terms of your budget and the  
19 money that you have to work with within a state?

20 A. Well, how I would do it -- number one,  
21 there's two types of cost containment measures.  
22 There's cost containment measures that for  
23 whatever reason the federal government has  
24 determined we're going to implement. And there  
25 are cost containment measures that we review and

1 determine that it's possible to implement, and the  
2 agency has a responsibility to identify areas  
3 where cost containment can in fact reduce costs  
4 and to bring that to the attention of the  
5 Department of Planning and Budget.

6 In the case of Montana, the  
7 legislative budget office, I think. I'm sorry,  
8 it's been a long time. But to bring that  
9 information to the attention, so that those can be  
10 fully reviewed. And when you look at cost  
11 containment measures, you looked to the cost that  
12 can be obtained by implementing versus the  
13 expenditure that would be incurred to -- to  
14 implement.

15 For example, in Montana we had --  
16 when I went to audit and program compliance, we  
17 had basically no third-party recoveries. And when  
18 I asked why, they said because the attorneys  
19 prevented them from being able to get involved.  
20 It was a problem. So I determined that if we  
21 hired an attorney on our staff whose only job was  
22 to deal with third-party liability cases and that  
23 I did not have to compare that need against all  
24 the other needs in our agency or at the AIG's  
25 office, we would collect a certain amount of

1 money, and that was going to be greater than it  
2 was going to cost to have that position in place,  
3 and it was funded.

4 Q. But you were the best person to  
5 make that determination, weren't you, because you  
6 were in the situation. Isn't that right?

7 MR. HAY: Object to the form of the  
8 question.

9 A. Well, let's take an example of when I was  
10 sitting in the Department of Planning and Budget.

11 Q. No, let's take that example.

12 A. I'm sitting in the Department of Planning  
13 and Budget --

14 Q. Let's finish with that example  
15 first. You made that call because you were in the  
16 position to make the call and you had the -- all  
17 the relevant facts at hand. Isn't that right?

18 A. In that case, yes.

19 Q. When somebody tells you how much  
20 money you're going to save by implementing a  
21 certain cost containment measure, do they always  
22 hit the nail on the head?

23 A. Well, for most of my term in government,  
24 when I was dealing with cost containment measures  
25 I was the one that was determining what amount was

1 going to be saved. Even if the program came up  
2 with a dollar, we determined the amount that was  
3 going to be saved, because in my experience over  
4 numerous years, people who do not have finance and  
5 economics and accounting degrees, but management,  
6 do an excellent job of managing Medicaid programs,  
7 have a very poor ability to estimate cost  
8 containment.

9 Q. Well, were you always right?

10 A. Was I always right? No.

11 Q. So, then, some of your cost  
12 containment measures didn't pan out in terms of  
13 saving the amount of money you thought they would  
14 save?

15 A. Well, to be truthful, I'm very conservative  
16 and know what it means to be overestimating your  
17 budget and what happens to you when you need to go  
18 back and seek supplemental appropriation. And I  
19 was always extremely conservative on the amount  
20 that I saved and generally put the other side in  
21 the position of saying that you've overstated  
22 those savings and we're going to say those savings  
23 are higher, because then I would be in the  
24 position of saying we do have a budget deficit.  
25 Which didn't happen very often we have a budget

1 deficit, and the reason is because you estimated  
2 these savings at this and these savings are this.  
3 You need --

4 Q. Is that appropriate to do that?

5 A. You can -- your job is to set an accurate  
6 budget. Your responsibilities --

7 Q. Did you misstate the savings?

8 A. There are -- they are estimates. They are  
9 estimates. And I always made conservative  
10 estimates. I also made conservative budgets, so  
11 when you budget conservatively, and that is don't  
12 inflate budgets, it's -- and you under -- and  
13 you're conservative on how much savings you are  
14 anticipating, you're pretty well-respected for  
15 that. It's when you overstate your expenditures  
16 and overstate your -- when you grossly overstate  
17 how much it's going to cost to do something or  
18 grossly overstate cost containment measures,  
19 that's when the problems occur.

20 Q. Have you ever grossly overstated  
21 cost containment?

22 A. My intention is to not do that.

23 Q. You said in your experience in  
24 dealing with Medicaid, you looked at a variety of  
25 factors that were costing your Medicaid program

1 money.

2 A. Yes, I did.

3 Q. Did you ever look at smoking?

4 A. No.

5 Q. Is your testimony that the cost

6 containment measures that you say Mississippi did

7 not employ, or didn't employ them soon enough,

8 means that the current expenditures or the

9 expenditures on an annual basis did not occur?

10 A. No.

11 Q. So it's your testimony that they

12 just could have done better?

13 A. They could have operated in an efficient,

14 effective manner, yes.

15 Q. One of the other areas that you say

16 the state should have done sooner -- by the way,

17 when did Mississippi go to managed care?

18 A. The first efforts were in 1993.

19 Q. Is it a full-blown managed care

20 system?

21 A. Oh, excuse me. There is a program called

22 community and home-based care, which is -- well,

23 that's not managed care. That's a -- I'm

24 confusing myself. 1993 they went to informed

25 managed care.

1 Q. Is it a full-blown managed care  
2 system?

3 A. No. The one they implemented in 1993, no.

4 Q. Is it today?

5 A. They managed two -- they have two programs  
6 right now. They had two programs based on the  
7 last set of documents that they sent us. And the  
8 one program is an AFDC program, gatekeeper  
9 program, with a primary care physician. And the  
10 other program is a capitation program and includes  
11 a list of who it didn't include rather than who it  
12 includes. It doesn't include people in nursing  
13 homes and it doesn't -- it doesn't clearly state  
14 that it includes MEQB, Medicare qualified  
15 beneficiaries. And since it doesn't at any time  
16 say that it is including Medicare qualified  
17 beneficiaries, it is my assumption those people  
18 are out, which would be what you normally see.

19 Q. Well, you stated earlier, did you  
20 not, that you couldn't quantify in dollar terms  
21 the impact of not having those programs on an  
22 earlier date. Is that right?

23 A. I can't give you a dollar amount. They  
24 have some dollar projections of what they're going  
25 to save annually. So they have made projections,

1     which they would have to do. But they're not  
2     monitoring those projections, or at least weren't  
3     for awhile. So we don't know the accuracy of  
4     those.

5             Q.       Does managed care always result in  
6     cost containment?

7     A.       It depends on what kind of managed care  
8     program it is and depends on -- it could cost you  
9     money. Depends on how you design it and set it  
10    up. It could end up costing a great deal more  
11    than a fee for service program.

12            Q.       Well, who would be in a position to  
13    determine whether or not it should be implemented  
14    or not?

15    A.       You would have to look to your data and  
16    determine -- in an HMO the question is the amount  
17    you're paying. Is the capitation payment set  
18    correctly, and is that capitation payment as low  
19    as you can pay and still get all of the services  
20    you need? That's a question. That would be a  
21    question.

22            Q.       Again, who's in the best position  
23    to make that determination?

24    A.       The state would review their data, but I do  
25    not know a state, including Mississippi, who made

1     that decision without assistance from consultants.

2             Q.         Were you the consultant?

3     A.         No, I wasn't.

4             Q.         Do all states have managed care?

5     A.         I don't know if all states have managed  
6     care.

7             Q.         What factors does the state need to  
8     look at before it determines whether or not it's  
9     ready for managed care?

10    A.         I guess they would look under themselves to  
11    see if they had the expertise on staff, either in  
12    the Medicaid agency or some other state agency, to  
13    run a managed care program. I mean, that would  
14    obviously be one of the most important things.  
15    They would look to see if they had -- that their  
16    data was accurate enough to be able to use as a  
17    basis for, at least as a basis for comparison of  
18    capitation rates.

19                 If you bid out your capitation  
20    rates, you would want to compare those back to  
21    what the average cost of the recipient is. If  
22    you're not going to bid them out, as Mississippi  
23    for whatever reason chose to do, then you have to  
24    set the capitation rate and look to the data to  
25    see if your data is accurate in order to be able

1 to set the capitation rate.

2 Q. You say for whatever reason chose  
3 to do?

4 A. Yes

5 Q. You don't know know those reasons,  
6 do you --

7 A. No.

8 Q. -- Ms. Godbout?

9 A. No.

10 Q. In fact, it would be somebody  
11 within the Mississippi Medicaid division that  
12 would understand why or why not, the reasons for  
13 implementing Medicare. Isn't that right?

14 A. They would know their reasons, yes.

15 Q. And the appropriateness of whether  
16 that was feasible for the State of Mississippi.  
17 Isn't that correct?

18 MR. HAY: Object to the form.

19 A. I don't know that they could determine  
20 their own -- because you made the decision does  
21 not make you the person that determines whether  
22 that was an appropriate decision or not. I mean,  
23 I've made lots of decisions which lots of people  
24 stood on the outside and questioned the  
25 appropriateness of that decision. So just because

1 I made the decision did not give me the authority  
2 or the permission to be the only person to decide  
3 whether it was an appropriate decision. That  
4 would be nice.

5 Q. Have you looked at all the  
6 necessary data that you just rattled off that you  
7 take into consideration when figuring out whether  
8 or not to use managed care? Have you reviewed all  
9 that data as it relates to the State of  
10 Mississippi?

11 A. I know enough about their payment system to  
12 know that they had serious problems in accuracy of  
13 data. I understand that problem.

14 Q. Well, that's not my question. My  
15 question to you is have you reviewed all the data  
16 in Mississippi that you've rattled off that's  
17 necessary in order to determine whether managed  
18 care is an appropriate animal to unleash on a  
19 wide-scale basis?

20 A. No.

21 Q. Tell me what would happen in a  
22 situation when a state went to managed care before  
23 it was ready to do so. Do you know any other  
24 states which have had a problem when they've done  
25 this?

1 A. I'm most familiar with the implementation  
2 of managed care -- by managed care are we talking  
3 about capitation, capitated managed care, or about  
4 all managed care? Because it's -- what are we  
5 talking about?

6 Q. Let's talk about both of them, if  
7 that will make you feel better. Capitated managed  
8 care, decapitated managed care. You know these  
9 terms better than I do.

10 MR. HAY: Well, let's deal with it  
11 one question at a time, though, so we all know  
12 what we're talking about. Why don't you restate  
13 your question.

14 Q. The question was what would happen  
15 to a state if it was not ready to implement on a  
16 wide basis capitative managed care?

17 A. I don't.

18 Q. Are you familiar with any problems  
19 states have experienced in implementing capitative  
20 managed care when they weren't ready?

21 A. I don't know -- I am familiar with some  
22 problems with implementation, of implementation of  
23 managed care. I do not know if those problems  
24 were related to their not being ready. I can't  
25 say.

1 Q. Well, what problems do they  
2 experience with capitated managed care?

3 A. Well, there were some problems in quality  
4 of care in California in the very early years, but  
5 because they were experimenting. And in 1971  
6 there wasn't very much -- there wasn't very much  
7 information available about capitated managed  
8 care. And now, because of private industry and  
9 the existence of HMOs, that's a different  
10 situation.

11 When you're trying to invent one  
12 yourself, it's a very different situation than  
13 when it's been around for close to 20 years. More  
14 than 20 years.

15 Q. Well, you know, I thought you  
16 testified earlier that that was one of the  
17 problems Mississippi had from its inception, was  
18 not implementing this cost control measure of  
19 managed care.

20 MR. HAY: Object to the form of the  
21 question.

22 Q. And now you're telling me it was a  
23 new animal in 1971?

24 A. I stated that -- I did not state that they  
25 should have implemented it in 1970. I stated that

1 it was a cost containment measure that should have  
2 been implemented much earlier than it was  
3 implemented.

4 Q. How much earlier?

5 A. You know, at least in the eighties.

6 Q. Do you know, you also suggest or  
7 actually say that the State of Mississippi should  
8 have introduced HMOs earlier. Have they  
9 introduced HMOs?

10 A. I thought that was -- I'm confused again by  
11 what you mean by managed care. I thought -- by  
12 managed care I thought you meant HMOs. So what  
13 did you mean by the first question?

14 Q. When you answered my question  
15 earlier, it was in terms of capitative managed  
16 care.

17 A. Okay.

18 Q. Is that not HMO?

19 A. Yes, it is.

20 Q. Okay. Well, this question still  
21 relates to HMO. You want me to call it  
22 capitative?

23 A. That's fine. Can you ask the question  
24 again.

25 Q. Has Mississippi gone to HMO?

1 A. Yes, they have.

2 Q. And in terms of pilot programs or  
3 in terms of wide-scale HMO?

4 A. They had pilots and it's implemented in a  
5 few rural areas.

6 Q. Do you know the results of those  
7 pilot programs?

8 A. No, I do not know the results.

9 Q. Do you know how sophisticated the  
10 HMO market is in the State of Mississippi?

11 A. No, but I would assume that it would be  
12 much less sophisticated in rural areas than urban  
13 areas because that is the experience of every  
14 other state.

15 Q. It would be what?

16 A. Much less sophisticated in rural areas than  
17 it is in urban areas, therefore you would  
18 implement in urban areas and delay in rural areas  
19 until you develop the HMOs. That's what most  
20 states would do.

21 Q. Is Mississippi urban or rural?

22 A. They have urban areas.

23 Q. Do you know whether the majority of  
24 the population in Mississippi is rural or urban?

25 A. No.

1 MR. HAY: Just to make sure we have  
2 a clean record, I had requested that the witness  
3 wait until the attorney asks a specific question  
4 before you make statements on the record.

5 Is it a good time to take a break?

6 MR. YOUNG: Sure.

7 (There is a recess from the  
8 record.)

9 Q. Would you look at Exhibit 2,  
10 please, your disclosure statement. Towards the  
11 bottom quarter of the page, your disclosure  
12 indicates that you're going to testify that  
13 because of the fraud -- I'm sorry, a little bit  
14 further on. "Ms. Godbout is expected to testify  
15 that there is a significant amount of fraud and  
16 abuse within the Mississippi Medicaid program  
17 which the state has done little to identify or  
18 curtail. She will further testify that because of  
19 the fraud and abuse within the Mississippi  
20 Medicaid program, the state's Medicaid  
21 expenditures do not accurately reflect the true  
22 cost of medical care."

23 Do you see that? Do you stand by  
24 those statements?

25 A. Yes.

1 Q. First of all, are there federal  
2 regulations that apply to Medicaid fraud and  
3 abuse?

4 A. There's some general regulations, yes.

5 Q. Does Mississippi implement those  
6 federal regulations?

7 MR. HAY: Object to the form of the  
8 question.

9 Q. Does the Division of Medicaid  
10 implement those federal regulations?

11 A. On occasions they have not implemented them  
12 properly. On other occasions I don't know, but --

13 Q. Before we talk about whether they  
14 have done so properly or improperly, do you know  
15 whether the Division of Medicaid as part of its  
16 program has in place these federal regulations  
17 dealing with fraud and abuse?

18 MR. HAY: Object to the form.

19 Q. Ms. Godbout, are they required to  
20 have these regulations or follow these  
21 regulations? Could you go to the federal  
22 government?

23 A. They are required to have a program  
24 integrity unit -- excuse me. They are required to  
25 investigate all complaints concerning fraud and

1 abuse. They're required to do that. They are  
2 required to have a survey utilization review  
3 system that meets --

4 Q. SURS?

5 A. -- SURS. That meets the minimum federal  
6 requirements. They are required to do that. And  
7 in order to -- those are the things that they're  
8 required to do in order to have a Medicaid  
9 program.

10 Q. Are they required to have a program  
11 integrity division?

12 A. No, they're required to review -- they are  
13 required to -- in order to have a Medicaid  
14 program, they're required to review complaints,  
15 all complaints that are made. That's what they're  
16 required to do.

17 Q. My question is are they required by  
18 federal regulations to have a Medicaid fraud unit?

19 A. No.

20 Q. Are they required to have a public  
21 integrity unit dealing with Medicaid fraud and  
22 abuse?

23 A. If they're required to have -- let's see.  
24 During the entire operation period of the Medicaid  
25 program in Mississippi, they were not always

1 required to have a Medicaid fraud and control  
2 unit. They are not required to do that during a  
3 large portion of the operation of the program in  
4 Mississippi.

5 Q. When were they required to have  
6 that?

7 A. I can't say when they were required to have  
8 it because they did have one. So I didn't look to  
9 see when they were required to have one.

10 Q. So you're telling us they did have  
11 a program integrity --

12 A. A Medicaid fraud control unit. I thought  
13 that's what you asked me. Medicaid fraud control  
14 unit.

15 Q. Okay. They had one even when they  
16 were not required to have one. Is that your  
17 testimony?

18 A. Yes.

19 Q. Do you know how long they've had  
20 one?

21 A. I can't remember the exact date. In the  
22 eighties.

23 Q. Do you know by year how much the  
24 fraud and control unit since the eighties has  
25 recovered by year?

1 A. I can't --

2 MR. HAY: Object to the form of the  
3 question.

4 A. No. Do I know the exact amount that was  
5 collected? I do not know the exact amount that  
6 was collected.

7 Q. Well, where would I look to find  
8 that exact amount?

9 A. I don't know where you would look.

10 Q. It's not on any forms?

11 A. Are you asking me where I looked to find  
12 it?

13 Q. I'm asking if I wanted to go to the  
14 Division of Medicaid and find out how much they  
15 recovered for fraud and abuse, where would I look?

16 A. The Medicaid agency is not -- does not run  
17 the Medicaid fraud control unit and is not  
18 responsible for maintaining the records on  
19 Medicaid fraud investigations.

20 Q. Who does that?

21 A. In my mind, the Medicaid fraud control unit  
22 does it and it's part of the Attorney General's  
23 office. In fact, the federal law prohibits you  
24 from including the Medicaid fraud control unit in  
25 the Medicaid agency. That is the one place you

1 cannot put it.

2 Q. Is the federal government telling  
3 Mississippi not to put the fraud control unit  
4 within the divisio of Medicaid?

5 A. The Medicaid fraud control unit, yes. If  
6 they want to be funded --

7 Q. Okay.

8 A. -- from Medicaid.

9 Q. If the fraud control unit recovers  
10 money, where does that money go in Mississippi?

11 A. The funds that are -- well, I'm not sure  
12 where it goes, but I can tell you where it should  
13 go.

14 Q. No, I want to know -- you're saying  
15 that we've not done enough on fraud and abuse. I  
16 want to know where the money -- are you saying  
17 we've never recovered money for fraud and abuse?

18 A. No.

19 Q. We have, haven't we?

20 A. Yes.

21 Q. Where does that money go?

22 A. I --

23 Q. You've done the historical review  
24 of Mississippi's Medicaid program. Now I want you  
25 to tell me where the money from the Medicaid fraud

1 and control unit that's recovered goes.

2 A. Because they recovered the money and they  
3 reported the recoveries to the federal government,  
4 I assume that they gave it back to the Medicaid  
5 agency. That is my assumption. So I cannot  
6 testify to the fact that they did not go back to  
7 state -- the state conference, but it is my  
8 assumption that it went back, that the federal  
9 portion of that money at least went back to the  
10 Medicaid agency. That is an assumption I made,  
11 because I wouldn't think that they would be  
12 reporting that they collected to the federal  
13 government if they intended to keep it.

14 Q. Well, where would they report that  
15 amount that they recovered?

16 A. They submit reports.

17 Q. What are those reports called?

18 A. Medicaid fraud control reports.

19 Q. Any other document that would  
20 indicate money was recovered because of fraud and  
21 abuse?

22 A. By the Medicaid fraud control unit?

23 Q. Well, what's the other units? Is  
24 there another unit?

25 A. There's another unit that investigates

- 1       claims.
- 2               Q.           What's that called in Mississippi?
- 3       A.       Program integrity unit.
- 4               Q.           And that's housed within the
- 5       Division of Medicaid. Is that right?
- 6       A.       Yes.
- 7               Q.           Did they recover funds, also?
- 8       A.       Yes.
- 9               Q.           Have they recovered funds in
- 10      Mississippi?
- 11      A.       Yes.
- 12              Q.           Where does that money go?
- 13      A.       The money that they recover is paid into --
- 14      comes into their accounting records and -- I mean,
- 15      I -- I mean, it goes in the state treasury. I
- 16      can't tell you where it goes.
- 17              Q.           Do you know that?
- 18      A.       No, I don't know where it goes.
- 19              Q.           You're just assuming that?
- 20      A.       I'm assuming the cash comes in, yes.
- 21              Q.           So your bottom line is you don't
- 22      know where the money goes?
- 23      A.       I don't even know that they recovered it.
- 24      I know that they reported they recovered it.
- 25              Q.           Are you going to testify that they

1 didn't recover it?

2 A. No, I'm not. I'm assuming that they have  
3 no reason to lie about the recoveries they made.

4 Q. Do they have a reason to lie about  
5 the expenditures they made?

6 A. No.

7 Q. Where would the recoveries be  
8 reported by either unit?

9 A. The Medicaid fraud control unit?

10 Q. Well, start there. Where would  
11 those recoveries be reported?

12 A. They're reported, as I indicated a few  
13 minutes ago, they're reported on a report that is  
14 prepared by that unit and is sent to the federal  
15 government. And I never personally prepared that  
16 report and I do not know the number of that  
17 report.

18 Q. Any other forms that that dollar  
19 amount would be reported on?

20 A. It would be reported on the HCFA 64.

21 Q. And in what context?

22 A. In the context, as I indicated, you have to  
23 report all of your recoveries.

24 Q. Why would you put it on there,  
25 though?

1 MR. HAY: Object to the form.

2 Q. Would it be relevant to total  
3 expenditures?

4 A. If you go back to my previous testimony, we  
5 could review that, if you'd like to, on how we  
6 prepare a HCFA 64.

7 Q. No, my question is would that money  
8 that's on the HCFA 64 as a result of fraud and  
9 abuse be relevant to total expenditures?

10 A. You net all of your recoveries against your  
11 expenditures to get your final reported  
12 expenditures.

13 Q. Do you know in any year whether or  
14 not Mississippi netted those fraud and abuse  
15 recoveries against its total expenditures?

16 A. My answer is that they were not cited by  
17 the auditor for having failed to do that. It is  
18 the auditors' responsibility to test those areas  
19 in cash management and federal reporting. And  
20 that if the auditor did his audit in compliance  
21 with the yellow book, that they would have in fact  
22 noted that they did not complete the 64 with the  
23 information they had to the extent that they  
24 understood that.

25 Q. Do you know for any year whether or

1 not the State of Mississippi did not net the fraud  
2 and abuse recoveries from its total health care  
3 expenditures in Medicaid?

4 MR. HAY: Object to the form of the  
5 question.

6 A. I saw no evidence that they did not do it,  
7 and they're required to do it.

8 Q. So as far as you know, they did.  
9 Isn't that correct?

10 A. Yes.

11 Q. In fact, you haven't looked at the  
12 HCFA 64s, have you, Ms. Godbout?

13 A. No.

14 Q. In your experience with Virginia,  
15 did you work with fraud and abuse in the Medicaid  
16 system?

17 A. Yes, I was responsible for managing the  
18 program.

19 Q. Did you all have 100 percent  
20 recovery in Virginia for fraud and abuse?

21 A. Far, far from it.

22 Q. Far, far from it? Well, what kind  
23 of rate did you have in Virginia?

24 A. I don't know what the rate was.

25 Q. You don't know what the rate was.

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1                   We were just talking about whether  
2   or not -- what your recovery rate for fraud and  
3   abuse was in the State of Virginia, that you  
4   worked there, and you said far from 100 percent I  
5   believe was your testimony.

6   A.       Yes.

7           Q.       Do you recall what your recovery  
8   rate was for fraud and abuse?

9   A.       I wasn't responsible for the fraud report.  
10   I don't know -- I can't say what was reported to  
11   the federal government in terms of what they  
12   prosecuted for fraud. But in terms of abuse, I  
13   did report those numbers, but I cannot remember  
14   what they were.

15          Q.       And you don't know how you ranked,  
16   and when I say "you," the State of Virginia ranked  
17   in terms of the recovery for fraud and abuse in  
18   the Medicaid program?

19   A.       No.

20          Q.       Has Mississippi failed to implement  
21   any program that you're aware of that they are  
22   required by federal law to implement dealing with  
23   fraud and abuse in the Medicaid division that they  
24   have not done?

25   A.       I'm having difficulty answering the

1 question because --

2 Q. Well, let me make it easier for  
3 you.

4 A. Okay.

5 Q. They're required under this fraud  
6 and abuse idea to implement a SURS program. Is  
7 that right?

8 A. Yes.

9 Q. They're required by the federal  
10 government. Is that right?

11 A. Yes.

12 Q. And Mississippi has that, don't  
13 they?

14 A. They have a SURS program.

15 Q. Okay. What else does the federal  
16 government require?

17 A. Well, number one, I want to back -- they  
18 don't require you to have a SURS program. They  
19 require you to have a SURS program if you wish to  
20 have 75 percent funding of your claims processing  
21 system.

22 Q. Okay. Does Mississippi have that,  
23 the SURS program?

24 A. They have a SURS subsystem, yes.

25 Q. And the purpose of that subsystem

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1 is to what?

2 A. It is used to detect outliers in terms of  
3 people who bill more than their peers.

4 Q. Okay. Is there any program that is  
5 required by the federal government in terms of  
6 fraud and abuse to be implemented by the Division  
7 of Medicaid?

8 A. They are required to investigate every  
9 complaint. That's a requirement.

10 Q. Do you know whether or not  
11 Mississippi has failed to investigate every  
12 complaint?

13 A. I don't know how many complaints they  
14 received and I don't know if they've investigated  
15 them.

16 Q. But it's your testimony that they  
17 could have done better?

18 A. Yes.

19 Q. Even though you don't know the  
20 number of complaints and you don't know whether or  
21 not they've investigated the complaints?

22 A. Yes.

23 Q. In your opinion, Ms. Godbout, what  
24 is the estimated amount by year of fraud and abuse  
25 in the Mississippi Medicaid program?

- 1 A. I haven't made an estimate.
- 2 Q. Have you quantified it?
- 3 A. No.
- 4 Q. Can you quantify it?
- 5 A. No.
- 6 Q. Can you quantify how much went  
7 undetected by the program?
- 8 A. No. I mean, it's -- I can't quantify  
9 that. There's studies, though, that it's 10 to 15  
10 percent if expenditures are the result of fraud  
11 and abuse.
- 12 Q. Do you know whether that's true in  
13 Mississippi or not?
- 14 A. I have no reason to believe it's not true,  
15 but I don't know that it's true.
- 16 Q. Have you done any investigation on  
17 your own, a study on your own to determine whether  
18 or not the rate of fraud, detected or undetected,  
19 and abuse in the Mississippi Medicaid system, what  
20 it is?
- 21 A. I reviewed the reports.
- 22 Q. Which reports?
- 23 A. The reports that -- from the -- there are  
24 reports that -- the agency is required to review a  
25 number of -- to perform a number of -- if they

1 want to have 75 percent funding of their Medicaid  
2 system, they are required to review a very  
3 miniscule number of cases each quarter. And so  
4 I've looked at those reports and I've looked at  
5 the one that went to full investigation and I  
6 looked at the Medicaid reports. And I found by  
7 looking at the Medicaid reports, the Medicaid  
8 fraud control reports, that one of two things  
9 happened. Either the amount of fraud in  
10 Mississippi has greatly increased in the recent  
11 past, in the nineties. It has either greatly  
12 increased or it was going undetected in the past.

13 Q. Why do you say it greatly  
14 increased?

15 A. Because in early periods they had like ten  
16 cases or 20 cases and now they have like 60 cases  
17 being sent over and --

18 Q. Well, Ms. Godbout, how has the  
19 population on the Medicaid program changed in that  
20 same span of years?

21 A. The population, I don't know if the -- the  
22 expenditures have not -- I don't know exactly what  
23 the increase is. It's probably at least 25  
24 percent increase.

25 Q. In population or expenditures?

1 A. In population.

2 Q. And what about expenditures?

3 A. They're probably -- let's see. Which  
4 period are we --

5 Q. Well, I want to ask you first, do  
6 you know what the amount of population increase on  
7 the Medicaid program is in Mississippi by year?

8 A. Not without -- no, I don't.

9 Q. So you wouldn't know whether or not  
10 ten compared to whatever population -- you can't  
11 do a comparison, can you, Ms. Godbout, on ten  
12 compared to an unknown population, because you  
13 don't know what the population was, versus 60  
14 compared to an unknown population?

15 MR. HAY: Object to the form of the  
16 question. That's not what she testified to.

17 Q. Well, when there were ten reported  
18 cases of fraud that you talked about -- and I  
19 don't even know what year you were referring to.  
20 Do you know?

21 A. What I know is that --

22 Q. That's not my question. I'm not  
23 asking you to explain anything.

24 A. Okay.

25 Q. What year were the ten cases of

1 fraud reported that you referred to?

2 A. I can't remember the exact year.

3 Q. Do you know then in that -- even  
4 though you can't remember the year, what the  
5 population, those ten in comparison to the total  
6 population on the Medicaid rolls were that year?

7 A. Well, in my opinion, the number of people  
8 that are on Medicaid is not a factor. It is the  
9 number of providers.

10 Q. Thank you, Ms. Godbout. That's not  
11 what I asked. I'm asking for facts.

12 MR. HAY: Just answer his question.

13 Q. You're the expert now on  
14 Mississippi. You looked at everything, so you  
15 say.

16 When you said -- you pulled out of  
17 the air ten cases of fraud in a given year, you  
18 can't now remember the year, but I want to know  
19 what the population was on the Medicaid rolls the  
20 year the ten fraud cases were reported.

21 A. I can't answer that question.

22 Q. Now, when you pulled the number of  
23 60 out of the air, do you know what year that came  
24 from, 60 fraud cases?

25 A. Would you like me to explain what my answer

1 was for those ten to 60 cases? Because I did not  
2 say they were fraud cases.

3 Q. Well, I thought that's what you  
4 said. You said ten cases of reported fraud.

5 A. Fraud and abuse.

6 Q. Okay. Does that differ from fraud?

7 A. Yes, it does.

8 Q. Okay. Ten cases of fraud and  
9 abuse. Do you know for that year, that you don't  
10 know what the year is, what the total population  
11 on the Medicaid roll was for that year?

12 A. For the ten, no.

13 Q. For the 60?

14 A. The 60 cases were in 1995.

15 Q. And do you know what the total  
16 population of Medicaid was in that year?

17 A. I know it -- I know it's approximately  
18 500,000, less than 600,000.

19 Q. When you're determining whether or  
20 not to set up a fraud control unit or a public  
21 integrity unit dealing with Medicaid fraud and  
22 abuse, do you have to work that into your overall  
23 budget for Medicaid for that particular year?

24 A. Yes.

25 Q. And in your experience, did you put

1 together any of the budgets in Virginia?

2 A. I put together many budgets in Virginia.

3 Q. Okay. Tell me where the fraud and  
4 control unit, the budgetary needs for the fraud  
5 and control unit and integrity unit fell within  
6 the total budget.

7 MR. HAY: Object to the form.

8 MR. YOUNG: That was a bad  
9 question.

10 Q. Generally, and please don't give me  
11 specifics, generally what are the big areas that  
12 make up your budget for the Medicaid program?

13 A. Benefits is by far and away the most,  
14 without any question, the biggest expenditure.  
15 Ninety percent, 95 percent.

16 Q. Do we follow with administrative  
17 costs next?

18 A. Claims adjudication costs, fiscal agent  
19 costs.

20 Q. Okay. Then do we follow with  
21 administrative costs?

22 A. Yes.

23 Q. Is fraud and control within  
24 administrative costs?

25 A. Fraud is not.

1 Q. Fraud and abuse, I'm sorry.

2 A. Fraud detection is carried out by the  
3 Medicaid fraud control unit. That budget is, in  
4 Virginia, is in the Attorney General's office, and  
5 that is not part of the Medicaid budgeting  
6 process.

7 Q. Okay. Let's exclude that one.  
8 What about the in-house? What do  
9 we call that, again, the in-house fraud and abuse  
10 detection?

11 A. There's a program integrity unit -- program  
12 integrity unit in Virginia.

13 Q. Okay. SURS would be a part of  
14 that?

15 A. They're responsible for the SURS system.

16 Q. Okay. Would that be within the  
17 administrative cost in a Medicaid budget?

18 A. Yes.

19 Q. You've got to take care of benefits  
20 and adjudicated costs for your fiscal agent before  
21 you ever even get to the third tier of  
22 administrative costs. Isn't that correct?

23 A. Yes.

24 Q. Do you know how much money  
25 Mississippi had left over after taking care -- for

1 any year, after taking care of benefits, fiscal  
2 agent costs, had left over to allocate towards  
3 fraud and abuse, the public integrity unit?

4 MR. HAY: Object to the form of the  
5 question.

6 A. I can't answer that question because that's  
7 not how budgeting is normally done in the  
8 government. If it's done that way in  
9 Mississippi --

10 Q. Well, do you know how it's done in  
11 Mississippi?

12 A. It's my --

13 Q. Do you know how it's done?

14 A. No.

15 Q. Tell me, Ms. Godbout, what tools do  
16 you recommend that the State of Mississippi should  
17 have used to detect the significant amount of  
18 fraud and abuse that you contend is present in the  
19 Mississippi Medicaid division?

20 A. Number one, they should have expanded the  
21 number of cases that they reviewed from the  
22 federal minimum of one-half percent. They should  
23 have targeted --

24 Q. Before we leave that, let's look --  
25 expanded the number of cases they reviewed?

1 A. Yes.

2 Q. Did you not testify earlier that  
3 you didn't know the number of cases that were  
4 reported?

5 A. I'm referring to the number of cases that  
6 they chose to review as compared to the number of  
7 cases they received as complaints.

8 Q. I thought you told me earlier you  
9 didn't know how many cases they reviewed in a  
10 given year.

11 MR. HAY: Object to the form. I  
12 don't think that's what she said.

13 A. If we go back, you asked me how many  
14 complaints they investigated and I --

15 Q. We're getting into the gray area  
16 between the public integrity division and the  
17 fraud and abuse unit at the Attorney General's --

18 A. No.

19 Q. Well, explain, because I want to  
20 understand this.

21 A. Okay. If you want to receive 75 percent  
22 funding for your claims adjudication problems, you  
23 must have a SURS system. You must operate the  
24 SURS system and you must -- and there are  
25 requirements, there are different factors under

1 the system's performance review, and one of those  
2 factors are whether the state properly reviews  
3 the -- properly runs its SURS system and properly  
4 investigates the providers that are identified as  
5 outliers in the SURS system.

6 Q. We're talking about the unit that's  
7 within the Division of Medicaid, correct?

8 A. Yes, yes.

9 Q. Do you have reason to believe that  
10 they did not?

11 A. Do I have reason to believe that --

12 Q. They did not meet the federal  
13 requirements.

14 A. They did not meet the federal requirements  
15 one year.

16 Q. One year?

17 A. One quarter --

18 Q. One quarter?

19 A. -- one year.

20 Q. What year was that?

21 A. I can't remember the exact date right now.

22 Q. Well, you're nailing the Division  
23 of Medicaid for failing to do what it should do on  
24 fraud control and you're going to tell me you just  
25 can't remember what year you're nailing them for

1     doing that out of 70 years -- or 20 years of  
2     Medicaid in Mississippi, 20 plus years of Medicaid  
3     in Mississippi?

4     A.       They have not been required to do SURS for  
5     20 years.

6            Q.       But they've had SURS more than what  
7     they've been required to have it, haven't they?

8     A.       The SURS system is part of a certified  
9     Medicare system. And when they wanted a certified  
10    Medicare system, they had to implement SURS.

11           Q.       Okay. I'm not trying to play games  
12    with you. I want to know what year that you say  
13    that they didn't meet the requirements in terms of  
14    looking at the number of complaints or adequately  
15    investigating the number of --

16    A.       What I said is they did not meet the  
17    minimal federal requirements which are minimal,  
18    they did not meet those one year, as compared to  
19    my saying that they only one year did not  
20    adequately do the job.

21           Q.       And you don't know what year that  
22    was?

23    A.       What year, no.

24           Q.       Do you know what corrective action  
25    was taken, if any?

1 A. They said that they would review them in  
2 the next year, and they did.

3 Q. Did they meet the requirements that  
4 year?

5 A. They weren't cited again for not doing it.

6 Q. So they met the requirements, did  
7 they not?

8 A. Yes.

9 Q. Did the state respond to the  
10 assertions that they had not met the requirements  
11 in the year that you said they did not?

12 A. I can't recall right now what their  
13 exact --

14 Q. Well, weren't you interested to  
15 know what the state's reply was to assertions that  
16 they didn't meet the requirements in formulating  
17 your opinion?

18 A. I was interested and I did read it, and I'm  
19 just not sure --

20 Q. Well, did the state respond? Do  
21 you even know if the state responded?

22 A. Yes, I do know that they --

23 Q. And you can't remember what they  
24 said?

25 A. No.

1           Q.       Ms. Godbout, when we left off, I  
2   asked you to tell me the measures that the state,  
3   in your opinion, should have taken concerning  
4   fraud and abuse that you don't believe they either  
5   did or did enough of, I take it. One of those,  
6   number one, was expanded the investigatory unit.

7   A.       Expanded the number of reviews that they  
8   did, yes.

9           Q.       That would be within the --  
10   which --

11   A.       Program integrity.

12           Q.       Okay. Anything else?

13   A.       To target those reviews more than just  
14   looking at outliers. If they expanded their  
15   sample, they will be able to target reviews,  
16   also.

17           Q.       What do you mean expanded their  
18   sample?

19   A.       When they do the minimal one-half percent  
20   of all providers, there's the requirements about  
21   which -- how many -- how that's broken down  
22   between different provider groups.

23           Q.       Is that significant? In other  
24   words, you would have to take a big enough sample  
25   to make sure it's significant in terms of what

1     you're finding?

2     A.       I would do that.  You don't have to do  
3     that.  Federal requirements don't require you to  
4     do that.

5             Q.       But you would to do that?

6     A.       If I had the resources to do it, I would,  
7     yes.

8             Q.       Okay.  What else?  Target the  
9     reviews, right?

10    A.       Correct.

11                    Another thing that I would do is I  
12    would set up a formal process so that each time  
13    there was a finding that medically unnecessary  
14    services had been delivered, that in fact the  
15    money was recovered from the provider.  They don't  
16    currently do that.  When it's medically  
17    unnecessary or the physician's services are found  
18    to be medically unnecessary, the testimony was  
19    that they don't take that money back.

20            Q.       When you say testimony, you're  
21    talking about Kenny O'Neill?

22    A.       Yes.  Can I look at the names?

23            Q.       Sure.  Kenny O'Neill is the  
24    Assistant Attorney General, if that will help  
25    you.  He's in the unit that's housed in...

1 MR. HAY: Do you remember the name?

2 A. It's Nancy Spencer. I think it's Nancy  
3 Spencer.

4 Q. Anything else?

5 A. Yes. I would set up a formal process for  
6 insuring that whenever issues of abuse were  
7 identified by the Program Integrity Bureau that  
8 was formally communicated to the -- either  
9 directly by that unit to the fiscal agent, with  
10 direction to take action to prevent those claims  
11 from being paid in such a manner again. But  
12 more -- with a recommendation on how to do that or  
13 to, if they are not -- if they do not directly  
14 communicate with the fiscal agent, then I would  
15 have them set up the formal process with the part  
16 of the division that does directly communicate  
17 with the fiscal agent.

18 Q. Okay. Anything else?

19 A. Let's see. We have more investigations,  
20 target investigations.

21 MR. HAY: You should -- she can't  
22 hear you.

23 THE WITNESS: I'm just counting to  
24 myself. I'm not testifying, I'm just trying to  
25 remember what I already testified to.

1 A. I didn't recognize -- I didn't notice where  
2 the unit had any memorandums of understanding with  
3 the Department, United States Department of  
4 Justice, or the FBI, or that they had anticipated  
5 in things such as Gold Pill and that -- there's  
6 nothing written about that and that wasn't  
7 provided. If they are not working with those  
8 bodies to investigate fraud and abuse, then I  
9 would make sure that those memorandums of  
10 understanding were in place and that in fact there  
11 was cooperation.

12 Q. Do you know whether or not they're  
13 in place?

14 A. I didn't see any reference.

15 Q. Did you review the testimony of  
16 Kenny O'Neill?

17 A. I'm talking -- we're talking about the  
18 program integrity unit right now. We're not  
19 talking about Medicaid fraud.

20 Q. All right. You called that last  
21 one Gold Pill?

22 MR. HAY: Verbally.

23 A. Verbally.

24 MR. HAY: No, you have to answer  
25 verbally.

1 A. Yes. Sorry. I used the term "Gold Pill,"  
2 which referred to a sting operation that was  
3 referred to --

4 Q. That's g-o-l-d, not g-o-a-l?

5 A. Golden is lots of money, yes.

6 Q. Okay. Anything else?

7 A. Well, definitely we would look to see what  
8 the adequate staffing is. They've indicated that  
9 they've asked for adequate staffing. As you  
10 properly indicated, there's been a huge increase  
11 in the program, yet the number of positions have  
12 been reduced. So where you have a greater  
13 potential for fraud and abuse because your program  
14 is growing at a very high rate, the Division  
15 actually decides to reduce the number of staff  
16 that are available to guard against that. And so  
17 I would find the resources inside or outside that  
18 agency or get more appropriation to fully staff  
19 that division.

20 Q. Anything else?

21 A. I think that's what I would do in the  
22 Medicaid division.

23 Q. Okay. What about the fraud unit?

24 A. One more thing in the program integrity  
25 unit. I would make sure that -- I believe that

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1 the staff was adequately trained in the  
2 identification of forms of provider abuse and  
3 possible fraud in areas other than pharmacy. I  
4 would want them to have at least as much expertise  
5 as the individuals that detect pharmacy fraud and  
6 abuse, because it appears that they have expertise  
7 in that area in pharmacy, but I'm not so sure that  
8 they have expertise in other areas.

9 Q. Why is pharmacy important?

10 A. Pharmacy is important because there's  
11 pharmacy -- because there's lots of pharmacy  
12 claims.

13 Q. In fact, isn't the majority of  
14 fraud pharmacy claims?

15 A. The majority of fraud that is convicted in  
16 Mississippi is pharmacy claims. That is not true  
17 in other states.

18 Q. Anything else?

19 A. That would be in the program integrity  
20 unit. Then there's also the Medicaid fraud  
21 control unit itself.

22 Q. Tell me about that. How would you  
23 whitewash that?

24 A. I would not whitewash it.

25 Q. How would you improve it?

1       A.       I would be sure there was adequate  
2       staffing. They had positions -- their accounting  
3       positions are -- have been vacant on and off and  
4       they may not have enough. I've been involved with  
5       accountants and attorneys for most of my career  
6       and I haven't met very many attorneys that know a  
7       lot about accounting. And so to leave an attorney  
8       to do auditing on their own is -- I wouldn't do  
9       that. I would not do that. I would hire auditors  
10      to ensure that they could do the investigations.

11             Q.       So we put auditors now in the fraud  
12      unit at the Attorney General's office?

13      A.       They have positions that are quite often  
14      vacant and I would make sure that they had enough  
15      positions. I would also make sure they had enough  
16      attorneys to actually investigate provider fraud  
17      as compared to where they spend the bulk of their  
18      time, which is -- I mean, there's nothing wrong  
19      with defending -- you know, protecting patients  
20      against fraud, I think that's a very important  
21      thing, but that does not protect the assets of the  
22      Medicaid program, that protects the assets of the  
23      patient.

24             Q.       All right. What else?

25      A.       I would insure that there are -- that the

1 unit is actively involved in all areas that they  
2 could be with the Justice Department and with the  
3 FBI and any other federal -- in HCFA OIG, to  
4 investigate fraud schemes. And they occasionally  
5 work with the Tennessee, according to the  
6 testimony I read, the Tennessee Bureau, but I  
7 would make sure that they were involved in all  
8 sorts of operations, because they go on every day  
9 in Medicaid and Medicare.

10 Q. Make sure that they're involved in  
11 all sorts of operations. What do you mean?

12 A. Well, there's --

13 THE WITNESS: Can I use the word  
14 "sting" operation?

15 MR. HAY: Sure.

16 A. The sting operations. And what you're  
17 trying to do is identify providers who are  
18 defrauding the program, and we usually use the  
19 term "sting."

20 Q. How much more staff would that  
21 require?

22 A. Well, it depends on whether you are just  
23 providing them with records. You can have various  
24 levels of cooperation.

25 One of the things in favor of the

1 state is the funding level of fraud. At the  
2 Attorney General's office that's a 75/25 percent  
3 match. So the state only has to come up with 25  
4 percent of the cost of the FTE. And when you're  
5 hiring -- and then over on the other side, in the  
6 Medicaid agency, and you're hiring medical  
7 professionals to act in the capacity that requires  
8 their medical degree, you also have that higher  
9 funding rate.

10 So that you're not -- you don't  
11 have the same problems you do hiring somebody like  
12 me, where a funding rate is only 50 percent. So  
13 it does -- it easier to get funding for those  
14 positions where there's less -- there's more  
15 federal involvement.

16 Q. They'll be glad to hear that.

17 A. They know that. They talk about it in  
18 their reports all the time.

19 MR. HAY: Just answer the  
20 questions.

21 Q. Okay. Anything else?

22 A. Those are the things that I would do to  
23 identify the -- to try to identify -- that comes  
24 to my mind right now that I would try to do to  
25 identify the fraud and abuse. There are other

1 actions that I would take.

2 Q. Have you given any thought to how  
3 many people this would take to fill your wish  
4 list? How many staff members, clerical and legal,  
5 accounting positions, this would take to fulfill  
6 your wish list in both units?

7 A. I haven't thought it all the way through.

8 Q. Well, would giving you this wish  
9 list give you 100 percent detection of fraud and  
10 abuse?

11 A. I don't know.

12 Q. Do you know any state that's  
13 implemented this whole wish list?

14 A. I don't know what process they've gone  
15 through. I mean, I know that there are states  
16 that staff at a higher level than Mississippi  
17 does.

18 Q. Do you know what their budget is  
19 compared to Mississippi's?

20 A. No, I don't have the budget --

21 Q. Do you know what their Medicaid  
22 enrollment is compared to what Mississippi's is?

23 A. Larger and smaller.

24 Q. Larger what?

25 A. Larger --

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1 Q. Than their Medicaid enrollment per  
2 Mississippi?

3 MR. HAY: All right. I thought I  
4 heard a more complete answer. Would you read it  
5 back, please.

6 (The record is read.)

7 Q. Mississippi's got a larger Medicaid  
8 enrollment and a smaller budget?

9 A. No. I thought you were asking me to  
10 compare the Medicaid enrollment in Mississippi to  
11 other states that had larger fraud and abuse  
12 expenditures. And I mean I may not have answered  
13 fully, but what I meant to say is that some of  
14 those states have larger Medicaid populations and  
15 some of those states have smaller Medicaid  
16 populations.

17 Q. Do you know what the percentage of  
18 Medicaid population in Mississippi is to the  
19 overall total of Mississippians?

20 A. According to the records that they've  
21 provided to us, 20 percent.

22 Q. That's one of the highest in the  
23 United States, isn't it?

24 A. That's high.

25 Q. If we give you this whole wish list

1     that you have just described, can you quantify for  
2     me, in terms of dollars, the impact on the  
3     Medicaid expenditures --

4     A.       Well --

5             Q.       -- for any given year?

6     A.       I did not say that was a wish list. Those  
7     are your words. I said those are the kinds of  
8     things you would implement if you wanted to try to  
9     identify all fraud and abuse. That's what you  
10    asked. You didn't ask me to --

11            Q.       Would this list allow you to  
12    identify all fraud and abuse?

13    A.       I don't know that.

14            Q.       Do you have any reason to believe  
15    it would?

16    A.       It would certainly -- all? No. I would  
17    hope that you could reach a staffing level where  
18    you could identify all of it.

19            Q.       Do you know what level that would  
20    be, Ms. Godbout?

21    A.       I would hope that it would be -- no, I  
22    don't know exactly what level that would be.

23            Q.       Again, if you had these procedures  
24    implemented in the State of Mississippi that you  
25    say would make it better, can you quantify the

1 impact these would have on total Medicaid  
2 expenditures?

3 A. I can't quantify that. But I can say that  
4 if they reduced -- if the fraud level is what we  
5 see in the rest of the country, 10, 15 percent,  
6 that the cost of implementing that program would  
7 be miniscule compared to the reduction in savings  
8 that you would experience in your Medicaid program  
9 by reducing -- by eliminating 10 to 15 percent of  
10 the wasteful expenditures. Miniscule.

11 Q. What would eradicating smoking from  
12 the Medicaid population do to the expenditures?

13 A. I have no idea.

14 MR. YOUNG: If you give us just a  
15 second to talk, I think we may be done.

16 (There is a recess from the  
17 record.)

18 Q. Are you familiar with the entity  
19 called Medstat?

20 A. Yes.

21 Q. What are they?

22 A. It's a company that they do contract work  
23 with states, and they do different kinds of  
24 contract work.

25 Q. Like what?

1 A. I think we contract with them to do some  
2 work in Mississippi, or they gave us some work or  
3 they worked with one of our subcontractors, but I  
4 can't recall what they did.

5 Q. We --

6 A. Excuse me, the Commonwealth of Virginia. I  
7 apologize.

8 Q. So they've done some work for  
9 Virginia?

10 A. Or a subcontractor or something. I mean, I  
11 am familiar with their name.

12 Q. And you believe that they may have  
13 done some work for you in Virginia?

14 A. I believe that they may have done  
15 something, or something for a contractor, or they  
16 may have been recommended -- they may have been  
17 included in a proposal as the one that would do  
18 something if another contractor received a  
19 contract.

20 Q. Do you know what that was that they  
21 would do?

22 A. (The witness shakes her head.)

23 Q. What year was that?

24 MR. HAY: You have to answer.

25 THE WITNESS: Excuse me. I

1 apologize.

2 A. No, I don't remember what it was. And no,  
3 I don't remember what year it was.

4 Q. Do you know if Medstat is generally  
5 recognized by Medicaid programs in terms of their  
6 expertise?

7 MR. HAY: Object to the form of the  
8 question. I also don't think that that's part of  
9 the scope of her expert testimony.

10 Q. Do you know if they have the  
11 Division of Medicaid under contract? You've  
12 looked at it historically.

13 A. No, I don't.

14 MR. YOUNG: I'm going to put these  
15 back together because apparently this was a --  
16 this was grouped together as, how it was produced  
17 to us, as one document. You might want to find it  
18 on the PG sheet. It starts at 171. There it is,  
19 right there, at the bottom.

20 MR. HAY: Elderly and disabled? Is  
21 that what you're talking about?

22 Q. Can you tell me what this document  
23 is? I'll let you put the rubber band around it.

24 MR. YOUNG: Let's attach that as  
25 the next exhibit. That would be Exhibit 6.

1 (Exhibit Godbout 6 is marked for  
2 identification.)

3 A. Do you want me to read what it says it is?

4 Q. I want to know if you're generally  
5 familiar with what that is.

6 A. Do you want me to look through the entire  
7 document?

8 Q. What is that concerning? What is  
9 the document concerning?

10 A. The document concerns a home and  
11 community-based waiver program.

12 Q. What is that, do you know?

13 A. Yes. It's a program that if you request a  
14 waiver from the federal government and it's  
15 approved, that you can place -- that you can treat  
16 individuals who remain in the community the same  
17 as you would treat those individuals if they were  
18 in a nursing home.

19 And it's important because it would  
20 be how you would treat them in determining their  
21 assets and resources. Because there's -- in the  
22 Medicaid program there's different rules about  
23 assets and resources and how you treat those for a  
24 person that's in a nursing home from a person who  
25 is in the community. And it's a problem because

1 people who want to stay in the community can't  
2 because of the treatment of resources and assets  
3 and income. If they move into the nursing home,  
4 they're treated differently. And so you use a  
5 waiver in order to use the same eligibility  
6 criteria.

7 Q. I think I get it.

8 A. I'm not trying to be confusing. If I  
9 haven't answered the question --

10 Q. Why didn't you request that  
11 document? Or did you request that document?

12 A. I don't know if it was requested or if it  
13 was given to me and I didn't have to.

14 Q. Did you use that document in  
15 formulating your opinion?

16 A. I looked at the document, yes.

17 Q. What particular area of your  
18 testimony is that related to?

19 A. It's looking at cost containment.

20 Q. It follows under the cost  
21 containment procedure?

22 A. You implement waiver programs as a cost  
23 containment measure. In my opinion, that's why  
24 you would do that.

25 Q. Okay. That's what I wanted to

1 know.

2 MR. YOUNG: That is it. We are  
3 done, I promise.

4 MR. HAY: Okay.

5 (The deposition is adjourned at  
6 4:39 p.m.)

7 (Exhibits retained by the court  
8 reporter.)

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## I N D E X

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3	EXHIBIT 1,	Notice of Deposition of
4		Defense Expert Witness
5	EXHIBIT 2,	Rule 26 Expert Statement
6	EXHIBIT 3,	Letter dated 3/18/97 to
7		Lee Young from Jordana G.
8		Schwartz with attachment
9	EXHIBIT 4,	Index of documents provided
10		to Patricia Godbout
11	EXHIBITS 5,	Fax dated 1/18/97 to John
12		Hay from Pat Godbout with
13		attached "Preliminary Working
14		Draft"
15	EXHIBIT 6,	Document concerning a home
16		and community based waiver
17		program
18		
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25		

1                                    JURAT

2                                    I, PATRICIA A. GODBOUT, do hereby  
3       certify that I have read the foregoing transcript  
4       of my testimony, taken on March 26, 1997, and have  
5       signed it subject to the following changes:

6                                    PAGE                    LINE                    CORRECTION

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PATRICIA A. GODBOUT

21

22       DATE:

23

24       Sworn and subscribed to before me on this           day  
         of

25       NOTARY PUBLIC           \_\_\_\_\_

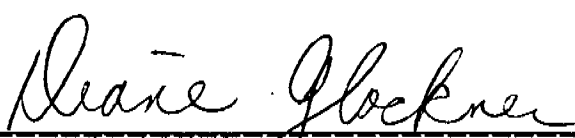
A. WILLIAM ROBERTS, JR., & ASSOCIATES

C E R T I F I C A T E

I, DIANE GLOCKNER, a Certified Shorthand Reporter and Notary Public of the States of New Jersey and New York, do hereby certify that prior to the commencement of the examination the witness was sworn by me to testify the truth, the whole truth and nothing but the truth.

I do further certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I do further certify that I am neither of counsel nor attorney for any party in this action and that I am not interested in the event nor outcome of this litigation.

  
\_\_\_\_\_  
Notary Public of the State of New Jersey  
N.J. ID Number 0028855  
N.Y. Registration No. 24-5006375

New Jersey Certificate No. XI01287

My N.J. commission expires December 11, 1997

A. WILLIAM ROBERTS, JR., & ASSOCIATES